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MONTEREY, CALIFORNIA

## THESIS

**A KEY TO ENDURING PEACE: REFORMS IN  
FEDERALLY ADMINISTERED TRIBAL AREAS OF  
PAKISTAN**

by

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December 2016

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**A KEY TO ENDURING PEACE: REFORMS IN FEDERALLY ADMINISTERED  
TRIBAL AREAS OF PAKISTAN**

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Submitted in partial fulfillment of the  
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## **ABSTRACT**

During the Cold War and the ongoing Global War On Terrorism, the Federally Administered Tribal Areas (FATA) of Pakistan formed the strongholds of mujahedeen-turned terrorists. For the last four decades, the tribespeople of FATA have been the victims of terror and socio-economic deprivation. The tribal traditions and the semi-autonomous status of FATA—in accordance with the constitution of Pakistan—barred Pakistan’s administration from imposing any order in the FATA. In the absence of any real law enforcement and governance mechanism in FATA, the Taliban thrived—and exported terror to the outside world.

After 9/11, amid international pressure, Pakistan’s government endeavored to establish its writ in FATA. As part of this process, Pakistan’s Army drove the Taliban from FATA through a decade-long military campaign. Now, to ensure peace, stability, and prosperity in the region, Pakistan must integrate FATA into the national mainstream by imposing the full constitutional framework on the lawless region.

This thesis examines the integration options available to Pakistan to absorb FATA into its national system and examines the possibility of merging FATA with Khyber Pakhtun Khaw province—which has significant ethnic, religious, and cultural similarities, though it has been part of Pakistan’s federal system for 70 years. Specifically, this thesis highlights the administrative and economic reforms necessary to establish effective state control and to bring the FATA to equal status with Pakistan’s other provinces.

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## LIST OF ACRONYMS AND ABBREVIATIONS

|           |   |
|-----------|---|
| ANP       | Awami National Party—Sub-national political party of KPK              |
| CAMP      | Community Appraisal and Motivation Program                            |
| CARs      | Central Asian Republics   |
| CIA       | Central Intelligence Agency   |
| CPEC      | China-Pakistan Economic Corridor                                      |
| FATA      | Federally Administered Tribal Areas                                   |
| FCR       | Frontier Crimes Regulations in 1901                                   |
| GWOT      | Global War On Terrorism   |
| IDP       | Internally Displaced Person   |
| ISAF      | International Security Assistance Force                               |
| ISI       | Inter-Services Intelligence   |
| JI        | <i>Jamat -e-Islami</i> —Religious political party of Pakistan         |
| JUI       | <i>Jamiat Ulema-e-Islam</i> —Religious political party of Pakistan    |
| KPK       | Khyber Pakhtun Khaw   |
| NFC Award | National Finance Commission Award                                     |
| OAM       | <i>Operation Al Miazan</i> —Code name of Pakistan’s military campaign |
| PEMRA     | Print and Electric Media Regulatory Authority                         |
| PPP       | Pakistan People’s Party   |
| PTI       | Pakistan <i>Tehrik-e-Insaf</i>  |
| QWP       | <i>Qaumi Watan</i> Party—Sub-national political party of KPK          |
| SAFRON    | Ministry of States and Frontier Regions                               |
| TTP       | Tehrik-e-Taliban Pakistan   |
| U.K.      | United Kingdom  |
| U.S.      | United States   |
| U.S.S.R.  | Union of Soviet Socialist Republics                                   |

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## I. INTRODUCTION

The rugged, mountainous Federally Administered Tribal Areas (FATA) lie along the Durand Line–Afghanistan border in northwest Pakistan. The FATA hosts Pashtu-speaking tribes who follow a social system based on tribal traditions and customs. The FATA has a population of approximately 4.2 million<sup>1</sup> in an area of 27,220 square kilometers, thus accounting for 1.6 percent of Pakistan’s total population and 3.4 percent of the state’s total area.<sup>2</sup> And yet, FATA is separate from the rest of Pakistan, with a semi-autonomous status that exempts FATA from much of Pakistan’s legal and governmental institutions.

The uncontrolled tribal lands of Pakistan have retained an independent or semi-independent status for centuries. During the colonial era, the British did not invest serious military or diplomatic efforts in assimilating the tribal areas or bringing them under the central control of the British Indian Empire in India; London was more interested in maintaining a buffer zone between the Soviet Union and British India.<sup>3</sup> The regulations that outlined this arrangement between FATA and the central authorities passed to Pakistan when the British Raj came to an end in 1947.

Since the sub-continent’s partition and Pakistan’s independence in 1947, amid numerous security and economic challenges, Pakistan has continued the British legacy in the management of the tribal areas.<sup>4</sup> Specifically, the 1973 Constitution of Pakistan continued the traditional semi-autonomous status in FATA,<sup>5</sup> partly because of the

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<sup>1</sup> “FATA Sustainable Return and Rehabilitation Strategy,” United Nations Development Program, March 2015, 7, accessed June 11, 2016, [http://www.pk.undp.org/content/pakistan/en/home/library/crisis\\_prevention\\_and\\_recovery/fata-sustainable-return-and-rehabilitation-strategy-.html](http://www.pk.undp.org/content/pakistan/en/home/library/crisis_prevention_and_recovery/fata-sustainable-return-and-rehabilitation-strategy-.html).

<sup>2</sup> Umbreen Javaid, “FATA a Breeding Ground of Extremism in Pakistan,” *Journal of Political Studies* 18 (2011): 174, accessed May 24, 2016, <http://pu.edu.pk/images/journal/pols/pdf-files/FATA%20-%202010.pdf>.

<sup>3</sup> Olaf K. Caroe, *The Pathans, 550 B.C.-A.D. 1957* (New York: MacMillan; St Martin’s Press, 1990), accessed April 20, 2016, <http://apnaorg.com/books/english/the-pathans/the-pathans.pdf>.

<sup>4</sup> Pervaiz Iqbal Cheema, ed., *Federally Administered Tribal Areas of Pakistan* (Islamabad: Islamabad Policy Research Institute, 2005).

<sup>5</sup> “The Constitution of the Islamic Republic of Pakistan, Part XII, Chapter 3: Tribal Areas” Government of Pakistan, February 2012, accessed July 24, 2016, [http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf).

demands of the local population and its leadership. FATA's semi-autonomy has attracted outlaws and terrorist groups from all over Pakistan who have found refuge and established illegal businesses through criminal rackets. Under the patronage of the Taliban, such illicit businesses as drug trafficking, weapons dealing, smuggling of contraband, and abductions for ransoms have thrived; Taliban factions have extracted money from such criminal enterprises to pursue their terror objectives.

Tensions in Afghanistan, just over the border, have exacerbated this situation. During the Soviet-Afghan War, the Taliban allegedly used FATA as well as eastern Afghanistan as safe havens for training and re-fitment as well as for a convenient hideout for its leadership. Then in 2013–2014, amid intense Pakistani military operations in FATA areas, the leadership of Tehrik-e-Taliban Pakistan (TTP) fled to Afghanistan from FATA. In retaliation, the TTP masterminded the 2014 massacre of the school at Peshawar, killing more than 150 students. The special status of FATA, currently without a central governing system, may be contributing to the region's instability, resulting in militancy and terrorism, in Pakistan and Afghanistan.

#### **A. MAJOR RESEARCH QUESTION**

Since 9/11, in the absence of central or unified control by the government of Pakistan, FATA has been home to such terrorist organizations as Al Qaeda and TTP. The prevailing security environment in the tribal areas and ungoverned spaces on the Afghan side of the Durand Line has created a security dilemma for Pakistan and Afghanistan. Meanwhile, in the neighboring province of Khyber Pakhtun Khaw (KPK), which shares ethnic, religious, and cultural similarities with FATA but which is completely assimilated into the federal structure of Pakistan, peace and stability prevail, and the outlook for the future of KPK is good.

This thesis asks: How can Pakistan's federal government bring FATA under more central or unified control? Does the extension of KPK's administrative and economic model for FATA provide a way forward for FATA's integration into Pakistan's national system? Specifically, which administrative reforms—in governance, politics, and the

judiciary—and economic restructurings should be enforced to thwart terrorists operating in FATA and to promote stability in the region?

## **B. SIGNIFICANCE OF THE RESEARCH QUESTION**

After 9/11, the Global War on Terrorism (GWOT) forced the Taliban and Al-Qaeda operatives out of Afghanistan—to re-establish their strongholds in FATA of Pakistan. In 2005, the Pakistan Army commenced military operations to eradicate terrorist sanctuaries in FATA. After a decade-long military operation, in 2015, Pakistan claimed to have re-established its writ in FATA, though at a heavy cost that included approximately 80,000 military and civilians deaths,<sup>6</sup> besides 3.7 million internally displaced persons (IDPs) from FATA.<sup>7</sup> In addition to the human cost, the financial cost has been approximately US\$118 billion.<sup>8</sup> At present, to restore social cohesion in FATA and to stop the re-emergence of violence, the Pakistani government has constituted various committees to formulate draft reforms.<sup>9</sup> It is crucial to prioritize the examination—and the decision—on draft reforms for FATA while the army is deployed there. The secure and protected environment that the military presence in the FATA provides is crucial to the installation and success of a civilian-lead administrative support mechanism along with the necessary infrastructure for both the local tribes and government institutions. The time is now for taking the local tribal populace aboard and involving the denizens of FATA in the formulation and implementation of the reform package.

A myth exists that the tribes of FATA have resisted modernity and development. In my opinion, during the past two centuries, there has been no real effort, either by

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<sup>6</sup> “Body Count: Casualty Figures after 10 years,” Physicians for Global Survival, New York, March 2015, 82, accessed May 28, 2016, [http://www.ippnw.de/commonFiles/pdfs/Frieden/Body\\_Count\\_first\\_international\\_edition\\_2015\\_final.pdf](http://www.ippnw.de/commonFiles/pdfs/Frieden/Body_Count_first_international_edition_2015_final.pdf).

<sup>7</sup> “FATA Sustainable Return and Rehabilitation Strategy,” 19.

<sup>8</sup> “Report of the Committee on FATA Reforms 2016 FATA,” Ministry of State and Frontier Regions, Government of Pakistan, August 2016, 1, accessed October 20, 2016, <http://202.83.164.29/safron/userfiles1/file/Report%20of%20the%20Committee%20on%20FATA%20Reforms%202016%20final.pdf>.

<sup>9</sup> “Prime Minister Sets Up Committee for Legal Reforms,” *News International*, December 1, 2015, accessed June 20, 2016, <https://www.thenews.com.pk/print/77981-pm-sets-up-committee-for-legal-reforms>.

London or, subsequently, by Islamabad to integrate FATA into any central or provincial governance system. After 9/11 and the GWOT, obvious threats have emanated from ungoverned FATA that have posed serious challenges to the security and stability of Pakistan. Amid these threats, Pakistan's political and military elite has concluded that the establishment of law and order in FATA is crucial for attainment of stability. The integration of FATA under a modern governing system may contribute significantly to the attainment of enduring peace not only in Pakistan and Afghanistan but in the world as a whole.

### C. LITERATURE REVIEW

A comprehensive study of scholarly sources on the tribal areas of Pakistan shows that the available literature is primarily descriptive. The relevant literature reflects the nature of relations between the tribes and the ruling elites of Kabul and Kandahar in the west and Delhi and Lahore in the east, from the 16th to the 20th centuries. For example, Pervaiz Iqbal Cheema, in *Federally Administrated Tribal Areas of Pakistan*, an edited collection of three descriptive essays, explains FATA's historical perspective through 9/11. Cheema's piece reflects the geography, history, absence of political system, and shortcomings of governance apparatus in FATA; he also indicates the fallout of the Soviet-Afghan War and its subsequent impact on neighboring FATA and rise of the Taliban, besides evolving present day conditions in FATA.<sup>10</sup> Cheema explains the conditions that existed and determined the relations between the tribes of FATA, and the British, rulers of Afghanistan and, subsequently, Pakistan.

Before the onset of the Cold War, a majority of literature discussing Pakistan's tribal areas came from Western scholars, especially from the British who were then present in India as a colonial force. I will refer to Olaf Caroe's book, *The Pathans*, and similar work on the subject.<sup>11</sup> Caroe highlights that for foreign powers, the mountain passes became the key attraction to secure passage in the terrain of FATA.<sup>12</sup> Through the

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<sup>10</sup> Cheema, *Federally Administered Tribal Areas of Pakistan*.

<sup>11</sup> Caroe, *The Pathans*, 550 B.C.-A.D. 1957.

<sup>12</sup> Ibid.

imposition of the Frontier Crimes Regulations (FCR) in 1901, the British placed a mechanism of indirect control in tribal areas located around the mountain passes,<sup>13</sup> and this interaction subsequently provided information about FATA to the rest of the world. The FCR mainly allowed the outside powers the right to use tracks around mountain passes; in their turn, tribal leaders derived material incentives as a monthly honorarium from the British.<sup>14</sup>

Sana Haroon's book, *Frontiers of Faith*, offers an in-depth analysis of the 18th century environment of FATA.<sup>15</sup> She examines the impact of religious leaders on the organization and its transformation to religious hostility and intolerance in order to primarily guard against external influences. These phenomena, absent any governance and control mechanism, even prompted practices such as intolerance of other beliefs, at times, even contradictory to the basic faith of Islam.<sup>16</sup> Olivier Roy has also indicated the similar phenomenon that promoted radical Islam to guard the nomadic traditions against contemporary social and political integration.<sup>17</sup> The FATA tribes saw the Afghan and central Asian warriors attacking India, the British, Soviets, and lately the Americans, as potential threats to tribal order. To serve regional interests at a low cost, the religiously radicalized tribes of FATA were by design kept aloof from modernity and civilization, even at the dawn of the 21st century.<sup>18</sup>

During the Cold War—especially with the Russian invasion of Afghanistan—Pakistani and Western scholars found FATA more attractive for analysis.<sup>19</sup> Steve Coll, in *Ghost Wars*, writes about the covert operations that the Central Intelligence Agency

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<sup>13</sup> “Choosing in Ungoverned Space: Pakistan’s Frontier Crimes Regulation,” University of San Diego, California, September 29, 2015, 2–3, accessed June 24, 2016, [http://econweb.ucsd.edu/~arezaee/pdfs/fcr\\_29sep2015.pdf](http://econweb.ucsd.edu/~arezaee/pdfs/fcr_29sep2015.pdf).

<sup>14</sup> Sana Haroon, *Frontier of Faith: Islam in the India-Afghan Borderland* (London: Hurst & Company, 2007), 23.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid., 66–68.

<sup>17</sup> Olivier Roy, *Islam and Resistance in Afghanistan* (Cambridge, England: Cambridge University Press, 1986).

<sup>18</sup> Larry P. Goodson, “The New Great Game: Pakistan’s Approach to Afghanistan after 2014,” *Asia Policy*, 17 (January 2014): 34, accessed July 11, 2016, <https://muse.jhu.edu/article/536780/pdf>.

<sup>19</sup> Here I am referring to the work of Olivier Roy, Sana Haroon, and Steve Coll besides many others.

(CIA) conducted during the 1980s, in collaboration with Saudi Arabia and Pakistan's Inter-Services Intelligence (ISI), inside Afghanistan and FATA.<sup>20</sup> The CIA and ISI, through these covert operations funded, recruited, trained, and equipped the mujahedeen to contest Soviet forces that had invaded Afghanistan.<sup>21</sup> The Soviets posed serious threats not only to the oil-rich Gulf, but to American interests in the Middle East, as well.

Since 9/11 and the GWOT, many scholars have written extensively on Afghanistan and FATA. As Coll demonstrates, most of the literature has been a narration of past events that leads to an evaluation of the prevailing environment of lawlessness that breeds terror in FATA.<sup>22</sup> However, the bulk of scholarly work does not provide the framework or measures that may contribute to needed central integration of FATA under a modern governance system. While most of the available literature highlights the bleak issues of FATA, this thesis endeavors to provide the framework to improve the socio-economic situation of the FATA through imposition of constitutional reforms.

Max Weber's theory of state authority, applied to the contemporary FATA system, highlights the existing voids in the legal framework that, in turn, preclude the state's "legitimate domination," in Weber's terminology.<sup>23</sup> Weber believes that a state retains control over the use of authorized force within a given geographical space.<sup>24</sup> He adds that people of a given territory provide legal, traditional, or charismatic authority to a state, and the state uses this authority through a governance mechanism.<sup>25</sup> Weber categorizes state authority in three types: traditional domination, charismatic domination, and domination by virtue of legality.<sup>26</sup> It is the rule of law and legal authority that promotes peace and democratic process in a society; whereas, for the last two centuries

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<sup>20</sup> Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden from the Soviet Invasion to September 10, 2001* (New York: Penguin, 2004).

<sup>21</sup> Coll, *Ghost Wars*, 119–124.

<sup>22</sup> Coll, *Ghost Wars*.

<sup>23</sup> Max Weber, "Politics as a Vocation," in *Essential Readings in Comparative Politics*, ed. Patrick H. O'Neil and Ronald Rogowski (New York: Norton & Company, 2013), 35.

<sup>24</sup> Weber, "Politics as a Vocation," 32.

<sup>25</sup> Ibid.

<sup>26</sup> Weber, "Politics as a Vocation," 35.



the nomadic culture in FATA has vested the authority in tribal chiefs—traditional domination.

Olivier Roy writes in his book, *Islam and Resistance in Afghanistan*, that legitimacy in FATA traditionally has taken the form of tribal legacy and charismatic religious personalities without a formal legal contract.<sup>27</sup> The absence of any legal domination, despite the presence of traditional and charismatic domination, deprived FATA of developing a formal governance system acceptable to the tribesmen.

In a tribal or nomadic society, tradition has significant effects on behaviors and practices. The people's attachment to nomadic practices results in resistance to any change, and hence people cling to the status quo despite evident benefits from new norms. Therefore, the inherent perception of freedom inbuilt freedom perception in nomadic society relegates the promised benefits linked with a formal state mechanism that apparently limits freedom of action. Prospect theory as explained by Kahneman and Tversky also supplements the reason for nomadic resistance to change and opposition to centralized state authority.<sup>28</sup> Tribesmen discourage or reject any change that brings along certain losses, despite equal or greater possible benefits. The ancient nomadic culture and pride in tribal traditions hinder the socio-political evolutionary process among the tribesmen.

*Pashtunwali*<sup>29</sup> is the tribes' code of conduct that includes ideas related to tribal identity and bondage. Charles Lindholm in his book, *Segmentary Lineage System*, opines that the society based on tribal traditions contests the idea of state supremacy over individual freedom.<sup>30</sup> These segmentary tribal groups vest a single individual within a

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<sup>27</sup> Roy, *Islam and Resistance in Afghanistan*.

<sup>28</sup> Jack S. Levy, "Loss Aversion, Framing Effects, and International Conflict: Perspectives from Prospect Theory," in *Handbook of War Studies II*, ed. Manus I. Midlarsky (Michigan: University of Michigan Press, 2000), 194–221.

<sup>29</sup> *Pashtunwali*: Pashtuns or Pathans follow a peculiar tribal tradition in their social interaction and for administration of justice. These tribal traditions have over time transformed as unwritten laws that are known and adhered to by all tribesmen in FATA.

<sup>30</sup> Charles Lindholm, "The Segmentary Lineage System: Its Applicability in Pakistan's Political Structure," in *Pakistan Western Borderland: The Transformation of Political Order*, ed. Ainslie T. Embree (New Delhi: Vikas Publishing House, 1977), 41–65.

hereditary system to decide their political, social, diplomatic, and religious leadership. At times, however, an additional individual, *the mullah*, is selected to lead in the religious domain. However, the patron of this theory's application differs between nomadic and sedentary segmentary groups.<sup>31</sup> The mountain-based nomadic groups have traditionally discouraged social interaction and are averse to change as compared to agriculturally based sedentary groups. Each group needs a different response option, though they may be similar in outlook.

Ahmed Rashid's volume, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia*,<sup>32</sup> and Joshua T. White's study, *Pakistan's Islamist Frontier: Islamic Politics and U.S. Policy in Pakistan's North–West Frontier*,<sup>33</sup> note the ungoverned, if not ungovernable, environment in the tribal areas and also proffer policy options to address the issue astride the Durand Line.

Both authors indicate policy fault lines in governance systems of the FATA: promotion of religious fundamentalism that transformed the mujahedeen into Taliban amid the Afghan Civil War<sup>34</sup> and the emergence of sectarian violence under foreign influence of domestic and regional state and non-state stakeholders.<sup>35</sup> These authors also advocate the transformation of administrative, political, economic, and judicial aspects of the governance system. White advocates reform in the development and political sector in FATA to improve the security situation.<sup>36</sup>

#### **D. POTENTIAL EXPLANATIONS AND HYPOTHESES**

The decade-long military operation in FATA has apparently created conditions for the enforcement of much needed socio-political reforms. The administrative and

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<sup>31</sup> Lindholm, "The Segmentary Lineage System: Its Applicability in Pakistan's Political Structure," 43–45.

<sup>32</sup> Ahmed Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia* (New Haven: Yale University Press, 2001).

<sup>33</sup> Joshua T. White, *Pakistan's Islamist Frontier: Islamic Politics and U.S. Policy in Pakistan's North– West Frontier* (Arlington: Center on Faith and International Affairs, 2008).

<sup>34</sup> Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia*.

<sup>35</sup> White, *Pakistan's Islamist Frontier*, 153.

<sup>36</sup> *Ibid.*, 150–65.

economic reform will help the state of Pakistan to integrate FATA under its central control. For a counter-example, the KPK province—formerly the Northwestern Frontier Province—functions under Pakistan’s constitutional framework, which provides legal authority to administer the law. Despite KPK’s ethnic, religious, and linguistic similarities to FATA, the enforcement of constitutional and legal authority through a legitimate governance structure has significantly improved the socio-economic outlook of KPK.

## **E. RESEARCH DESIGN**

This thesis endeavors to highlight the method through which Pakistan must integrate legal authority with the traditional and charismatic-religious authority. This process must incorporate the tribal populace to evolve a multi-dimensional governance system.

My research also examines the possibility of application of similar political and governance mechanisms in FATA already in practice in KPK. As the government needs to attain legal justification for the exercise of authority as advocated by Weber, this thesis analyzes the possibility of a referendum to inquire about the tribesmen’s intention to adopt a modern state system, and to replace the prevailing violent, radical nomadic order.

This thesis suggests the basic contours of and a framework for a new reformed system for implementation in FATA to bring these areas under effective control of the state. The thesis also highlights the current administrative system—including governance, political, and judicial aspects—and economic system of FATA, beside recommending reforms in existing systems and a way forward for the integration of FATA into Pakistan’s state system.

## **F. THESIS OVERVIEW AND DRAFT CHAPTER OUTLINE**

Chapter II introduces FATA from a historical perspective, analyzes the shaping of the prevailing environment, and also highlights the basic contours of the current FCR-centric administrative, political, economic, and judicial mechanisms in FATA. Chapter III highlights FATA’s current administrative system, including its governance, political,

and judicial aspects. In Chapter III, I also address issues related to law and order, law enforcement, legislation, local government mechanism, and *Jirga*-based nomadic judicial system.

Chapter IV of the thesis highlights the economic layout of FATA and explains how bureaucratic administration and the tribal elite of FATA conspired to manipulate the finances that led to the socio-economic deprivation of tribesmen of FATA. Chapter V of the thesis examines the existing administrative, political, economic, and judicial systems enforced in the KPK province of Pakistan. This chapter also highlights the existing systems of KPK within Pakistan's constitutional framework, and identifies disparities between the living conditions of KPK's residents and those in FATA.

Chapter VI identifies all contributing and limiting factors relevant to the merger of FATA into KPK province and the extension of KPK's governance jurisdiction into FATA. In addition, this chapter analyzes the FATA's administration and economic shortfalls besides recommending an all-encompassing comprehensive reform package essential for restoration of peace and stability in FATA.

## II. THE HISTORY OF FATA

Historically, the tribal area of Pakistan has retained its independent status and functioned according to a nomadic tribal power structure, while resisting outside powers. A nomadic tribal society has inhabited FATA for centuries. Many invaders, including Alexander the Great, Changez Khan, Tamerlane, Mughals, and numerous others, crossed the mountain passes of FATA toward western India.<sup>37</sup> Still, the tribal society has retained its nomadic culture and deflected the influence of outside invading powers passing through these tribal lands.

Caroe highlights that, for the British, the mountain passes of FATA were the key attraction for a secure passage toward Afghanistan.<sup>38</sup> Rugged mountainous terrain and tribal resistance forced the British to avoid direct control of FATA, contrary to the rest of India. Pakistan also continued the British policy to manage FATA without imposing its constitutional and legal framework. Due to the semi-independent status of FATA no administrative system could be installed, which led to the spread of lawlessness and militancy in FATA, Pakistan, and the region.

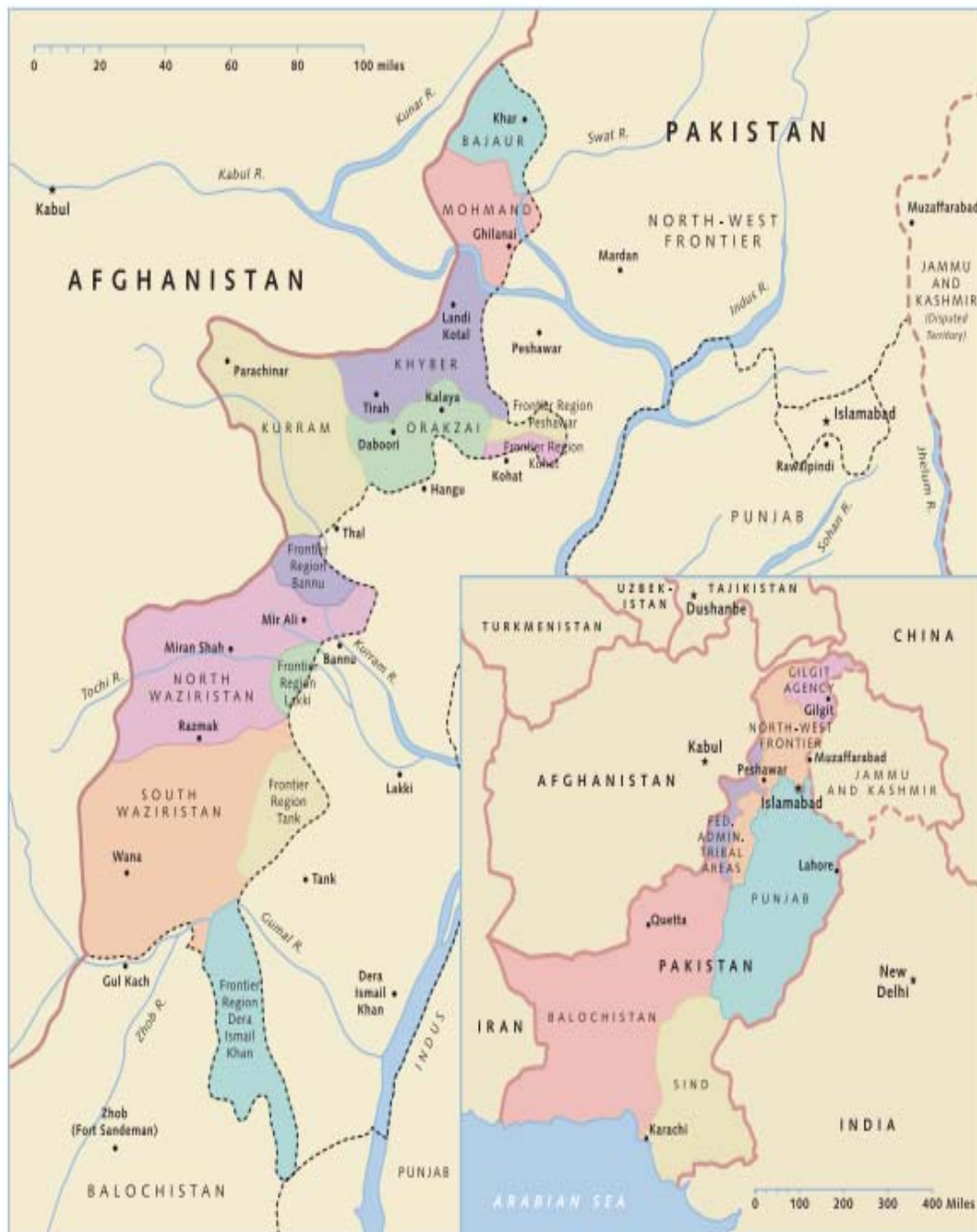
Figure 1 depicts the geographical location of the Tribal Agencies of the FATA in relation to the rest of Pakistan: FATA of Pakistan is located between the Pakistan-Afghanistan international border—the Durand Line—and the settled districts of the KPK province.

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<sup>37</sup> Caroe, *The Pathans, 550 B.C.-A.D.* 1957, 3–17.

<sup>38</sup> Ibid.

Figure 1. Map of Tribal Agencies of the FATA—Pakistan.<sup>39</sup>



<sup>39</sup> Source: Shuja Nawaz, *The Most Dangerous Place* (Washington, D.C.: Centre for Strategic and International Studies Press, 2009), 3, accessed June 14, 2016, [https://csis-prod.s3.amazonaws.com/s3fs-public/legacy\\_files/files/media/csis/pubs/081218\\_nawaz\\_fata\\_web.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/media/csis/pubs/081218_nawaz_fata_web.pdf).

## A. PAKISTAN'S INDEPENDENCE AND AFGHANISTAN'S TROUBLES

After 1947, the newly established Pakistan, confronted with multiple challenges to ensure its survival, did not find FATA worth the investment of its much-needed resources. The Pakistan's ruling elite considered the consolidation of other areas politically more significant. In addition, Pakistan preferred to maintain the status quo in FATA to win the loyalty of tribes and to retain the relevance of the Durand Line.<sup>40</sup> All three constitutions of Pakistan retained the semi-independent status of FATA in one form or the other. Chapter 2 of the 1956 constitution and article 223 of the 1962 constitution exempted FATA from the central and provincial jurisdiction. In accordance with article 247, the 1973 constitution continued the semi-independent status of the tribal area, and FATA came under executive authority of the federation of Pakistan.

In 1979, the Soviets invaded Afghanistan, posing serious threats not only to the oil-rich Gulf, but to American interests in the Middle East. Coll explains that the CIA capitalized on the existing nomadic environment astride the Durand Line, both in FATA-Pakistan and Eastern Afghanistan.<sup>41</sup> Illiterate and unemployed youths—Afghan refugees, Pakistanis, Arabs, and young men from the rest of the Muslim world—were motivated by multiple-state sponsored *mullahs*, using American and Saudi money, to fight the so-called holy war. These Islamic fundamentalists also gained significant control over the nomadic FATA due to state-sponsored *jihad* in Afghanistan.<sup>42</sup>

The Pakistan-U.S.-Saudi Arabian effort combined political, diplomatic, military, propaganda, and intelligence means, and successfully forced the Soviets out of Afghanistan in 1988.<sup>43</sup> After the Soviets' withdrawal, the United States abandoned the fragmented mujahedeen groups without any rehabilitation or disarmament plan. After the disintegration of the U.S.S.R. and the end of Cold War, the United States revisited its security interests in South Asia and shifted its focus to the Middle East and Iraq. The

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<sup>40</sup> Pervaiz Iqbal Cheema and Maqood ul Hassan Nuri, eds., *Tribal Areas of Pakistan, Challenges and Response* (Islamabad: Islamabad Policy Research Institute, 2005), 30–31.

<sup>41</sup> Coll, *Ghost Wars*, 125.

<sup>42</sup> Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia*, 184–186.

<sup>43</sup> Coll, *Ghost Wars*, 176–177.

United States not only stopped assistance to the mujahedeen, but also enforced military and economic sanctions against its Cold War ally Pakistan during the 1990s.<sup>44</sup>

These religiously radicalized groups, now duly equipped with modern means of war, including American Stinger missiles, subsequently engaged in a fierce sectarian civil war to attain control over Kabul.<sup>45</sup> Afghanistan fell into total chaos. Across the border, the dominant Islamic religious segment resisted any postwar efforts by Pakistan to integrate FATA into its central authority.

After the Afghan-Soviet war, the continuity of Pakistan's non-integration policy for FATA led an internal power struggle in the territory; the mujahedeen adopted ruthless practices against the local populace that marked the emergence of the Taliban and Al-Qaeda.<sup>46</sup> At that time, both Saudi Arabia and Pakistan supported the rise of the Taliban—the former to promote *Wahhabism*,<sup>47</sup> and the latter, out of national security interests.

Ultimately in 1995–1996, Mullah Omar established himself as caliph in Afghanistan, forming a government with major areas of the territory under the Taliban's control.<sup>48</sup> The Taliban, despite coming to power in Afghanistan, continued using FATA's strongholds and challenged Pakistan's efforts to re-establish its control. This growing influence of the Taliban and Al-Qaeda in FATA, and the resultant rise of the militancy among their followers, deprived the state-nominated tribal chiefs, known as *maliks*, of their traditional influence and powers. Instead, they were replaced by fundamentalist religious clergy, who hijacked the tribes' traditional social contract in the name of Islam.

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<sup>44</sup> Dianne E. Rennack, *India and Pakistan: Current U.S. Economic Sanctions* (CRS Report No. 20995) (Washington, DC: Congressional Research Service, October 2001).

<sup>45</sup> Coll, *Ghost Wars*, 204–224.

<sup>46</sup> Ibid, 295–300.

<sup>47</sup> Wahhabism is a dominant faith/sect of Islam followed in Saudi Arabia. Wahhabism insists on literal interpretation of Quran.

<sup>48</sup> Coll, *Ghost Wars*, 328.



## **B. IMPACT OF GWOT AND PAKISTAN'S MILITARY CAMPAIGN ON FATA**

After 9/11, the GWOT forced the ruling Afghan Taliban and Al-Qaeda operatives out of Afghanistan—only to see them re-establish their Soviet-Afghan War and Cold War-era strongholds in FATA. With the onset of GWOT, Pakistan changed its policy of patronization of the Taliban,<sup>49</sup> and became the front line ally of the international coalition and started providing logistical support to and sharing intelligence pertaining to the Taliban with the International Security Assistance Force (ISAF) operating in Afghanistan. Pakistan's alliance with the United States in GWOT resulted in the creation of the Tehrik-e-Taliban (TTP), which dominated the population of FATA through terror, and spread the menace of terror to the settled areas and major cities of Pakistan.<sup>50</sup> As a result, since 2006, the Taliban started indiscriminately attacking military and civilian targets in FATA and the rest of Pakistan.<sup>51</sup>

Consequently, the Pakistan Army started military operations in 2004 to eradicate terrorist sanctuaries in FATA.<sup>52</sup> During the initial stage of the military campaign, the Pakistan army undertook anti-terrorist operations in FATA with support from *maliks*, political agents, and *Jirgas*.<sup>53</sup> In response, the terrorists killed hundreds of *maliks*, forcing the majority to either leave FATA or accept Taliban domination, thereby paralyzing the nomadic tribal liaison system with the central government.<sup>54</sup>

Pakistan's government is following a comprehensive plan for the return and rehabilitation of the IDPs.<sup>55</sup> The United Nations October 2016 estimates highlight that, so

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<sup>49</sup> Hassan Askari, "Why Pakistan Joined War on Terror?," *Generation Next*, November 24, 2010, accessed September 10, 2016, <http://www.sagennext.com/2010/11/24/why-pakistan-joined-war-on-terror/>.

<sup>50</sup> Khalid Hodayun Nadiri, "Old Habits, New Consequences: Pakistan's Posture toward Afghanistan since 2001," *International Security*, no.2, 39 (2014): 149.

<sup>51</sup> "Body Count: Casualty Figures after 10 years," 84–86.

<sup>52</sup> Shuja Nawaz, *The Most Dangerous Place*, 15.

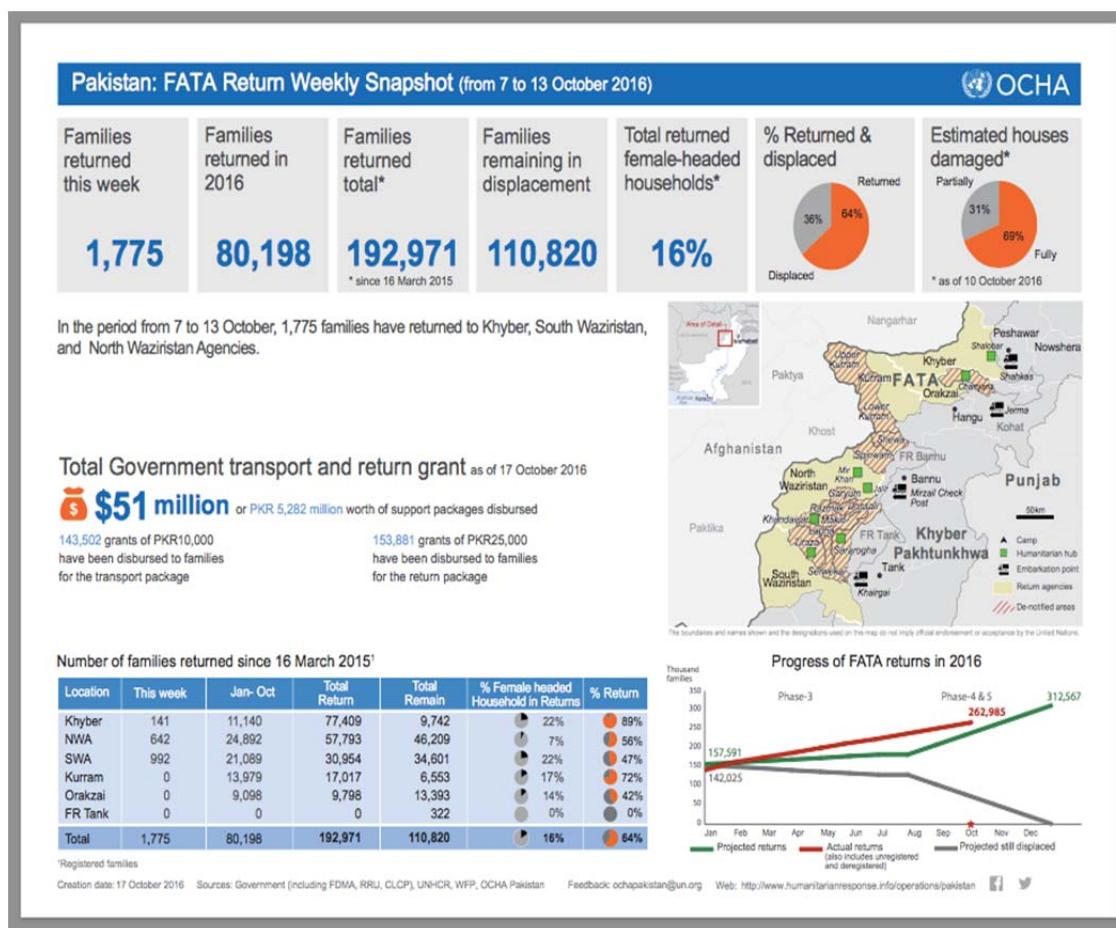
<sup>53</sup> *Ibid.*, 25–28.

<sup>54</sup> *Ibid.*

<sup>55</sup> "FATA Sustainable Return and Rehabilitation Strategy," 7.

far, only 64 percent of the IDPs have returned.<sup>56</sup> Figure 2 highlights the progress of the return of IDPs in each agency of FATA.

Figure 2. FATA—Return of IDPs—March 2015 to October 2016.<sup>57</sup>



Note: On average, each family consists of six to seven persons.

Pakistan has been engaged in active military operations in FATA since 2003–2004. In 2005, Pakistan had more than 75,000 troops deployed in FATA areas, manning more than 600 border outposts along the Durand Line—as compared to 25,000 Afghan

<sup>56</sup> “Pakistan: FATA Return Weekly Snapshot (from 7 to 13 October 2016),” United Nations Office for the Coordination of Humanitarian Affairs, October 2016, accessed October 27, 2016, <http://reliefweb.int/report/pakistan/pakistan-fata-return-weekly-snapshot-7-13-october-2016>.

<sup>57</sup> Source: “Pakistan: FATA Return Weekly Snapshot (from 7 to 13 October 2016),”

and ISAF troops on the other side.<sup>58</sup> Unlike ISAF, the Pakistan Army, while operating in its own area, was compelled to exercise extreme restraint to avoid collateral damage. The use of excessive force, and resultant civilian casualties, could have deprived the Pakistan Army of popular public support vital for counter-insurgency operations.

Amid fierce resistance in FATA and widespread violence across the country, Pakistan was forced to evolve a strategy in line with its national objectives and international and regional expectations of its allies. Pakistan insisted that the reconciliation efforts for peace in Afghanistan must involve every segment of society, especially the majority Pashtun. Pakistan's military establishment considers that Afghanistan's major ethnic group—the Pashtun—should have a significant role in shaping the future political outlook of the Afghanistan, apparently to guard Pakistan's interests in Kabul.<sup>59</sup> The selection of Pashto-speaking Ashraf Ghani as Afghan President has filled this void to an extent, and he is trying to engage the Pashtun Taliban in the political process.<sup>60</sup> However, Pakistan considers that the alienation of Pashtuns from their political participation in Kabul may result in the rise of Pashtun nationalism, affecting Pakistan.

Since the start of GWOT, FATA has allegedly hosted and protected the Afghan Taliban who have been instrumental in de-stabilizing Afghanistan. Criminals, drug traffickers, and weapons dealers have exploited the ungoverned porous areas astride the Durand Line. The Afghan and Pakistani Taliban, as well as Al Qaeda operatives, have exploited the lack of governance and the absence of a border control mechanism in FATA and in adjacent Afghan areas to establish their strongholds. On numerous occasions, both the United States and Afghanistan have asked Pakistan to “do more”

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<sup>58</sup> The Hollings Centre, “The Durand Line: History, Consequences, and Future,” paper presented at The American Institute of Afghan Studies Conference, Istanbul, Turkey, October 2007, 11–12.

<sup>59</sup> Nadiri, “Old Habits, New Consequences,” 168.

<sup>60</sup> Aziz Amin Ahmadzai, “Hezb-e Islami's Opening Is a Major Opportunity for Ashraf Ghani and Afghanistan,” *Diplomat*, May 11, 2016, accessed May 15, 2016, <http://thediplomat.com/2016/05/hezb-e-islam-is-opening-is-a-major-opportunity-for-ashraf-ghani-and-afghanistan/>.

against the Taliban in FATA, and Pakistan has defended its limited capacity issues to monitor the Durand Line due to resource constraints.<sup>61</sup>

Owing to limited resources and emerging Indian threats from the east,<sup>62</sup> Pakistan chose a divide-and-conquer policy toward the Taliban by negotiating with a few, while fighting others. Since 2007, Pakistan conducted a systematically phased military campaign—code named *Operation Al Miazan (OAM)*, from one agency of FATA to another)—and destroyed Taliban sanctuaries and strongholds throughout FATA.

In 2014, the culminating military phase, commonly known as Zarb-e-Azb, was launched in North Waziristan Agency of FATA to flush out the Taliban, including the notorious Haqqani Network, and was fiercely contested by the Taliban. Amid this phase, Pakistan had more than 17,5000 soldiers engaged in counterinsurgency and stability operations in FATA.<sup>63</sup> Operation Zarb-e-Azb effectively eliminated the Taliban's strongholds from North Waziristan Agency, and at that time, U.S. Secretary of State John Kerry acknowledged that the notorious Haqqani Network was dismantled and its remnants fled to Afghanistan.<sup>64</sup>

The Pakistan Army claims that after having flushed the Taliban out of FATA, it is now engaged in combing operations across the country against underground and sleeper cells of the Taliban.<sup>65</sup> Owing to the destruction of the command and control structures of the Taliban, the security situation in Pakistan continues to improve significantly, and violence has been reduced significantly. In 2015, the number of the TTP's attacks was the lowest since its formation in 2007.<sup>66</sup>

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<sup>61</sup> Shuja Nawaz, *The Most Dangerous Place*, 1.

<sup>62</sup> Here I am specifically referring to the 2002–2003 and 2008–2009 escalations when both Pakistan and India moved their forces to battle locations and were at the brink of war.

<sup>63</sup> Zulfiqar Ali, "Sleeper Cells Are Being Eliminated in KPK: Army," *Daily Dawn*, May 31, 2016, accessed June 1, 2016, <http://www.dawn.com/news/1261720/sleeper-cells-being-eliminated-in-kp-army>.

<sup>64</sup> Anwer Iqbal, "FATA Operations Forced Haqqanis to Flee: US," *Daily Dawn*, February 25, 2016, accessed May 30, 2016, <http://www.dawn.com/news/1241796>.

<sup>65</sup> Ayaz Ahmed, "FATA after Operation Zarb-e-Azb," *Defense Journal*, (2016): 23.

<sup>66</sup> "Pakistan Maintains Defense Budget Increase as Security Improves," *Dunya News*, June 4, 2016, accessed July 23, 2016, <http://dunyanews.tv/en/Pakistan/339693-Pakistan-maintains-defence-budget-increase-as-secu>.

### **III. FATA’S ADMINISTRATIVE, POLITICAL AND JUDICIAL SYSTEMS**

Contrary to the modern world and the rest of the Pakistan, since 1947, on the pretext of tribal identity, the tribal elite of FATA and the State of Pakistan have not introduced a workable governance system in FATA. In line with various articles of the 1973 constitution, Pakistan still governs the FATA through the colonial FCR. The existing management mechanism limits the participation of FATA’s populace in governance, politics, and administrative decision making at all levels. In the absence of inclusive, participatory administrative, political, and judicial structures in FATA, tribesmen are deprived of the advantages and welfare acquired through modern democratic administrative, political, and judicial systems.

This chapter examines the governance, political, and judicial systems that prevail in FATA, derived through the FCR. This chapter also analyzes how these systems deprive FATA’s tribesmen from a participatory role in their own government.

#### **A. FATA’S CURRENT ADMINISTRATIVE AND GOVERNANCE STRUCTURE**

Historically, FATA has been void of any administrative system, and today still functions through a segmented and nomadic tribal system in which power rests solely with the tribal leaders. Ancestral structures of the tribal societies promote inter-clan rivalry and disrupt central unity essential to political and administrative progress.<sup>67</sup> The FCR-based administrative system, a vestige of 1901, grants enormous powers to the political agents, *maliks*.

Since 1947, the Pakistani government’s federal Ministry of State and Frontier Regions (SAFRON) has supervised administrative and development issues of the FATA. Pakistan, as a democratic federation state, elects its federal and provincial governments through elections. Pakistan has numerous national and sub-national political parties. At

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<sup>67</sup> Akbar S. Ahmed, *Pakistan: The Social Sciences’ Perspective* (Karachi: Oxford University Press, 1990), 70.

times, different political parties have come into power at the federal and provincial levels. Irrespective of the elected provincial government, to safeguard federal interests in the province, the president appoints governors of all provinces who then act as representatives of the federation. Because FATA is not an independent province, FATA has neither a provincial constituent assembly nor representation in KPK's provincial assembly. The governor of KPK administers FATA on the behalf of the president of Pakistan.<sup>68</sup>

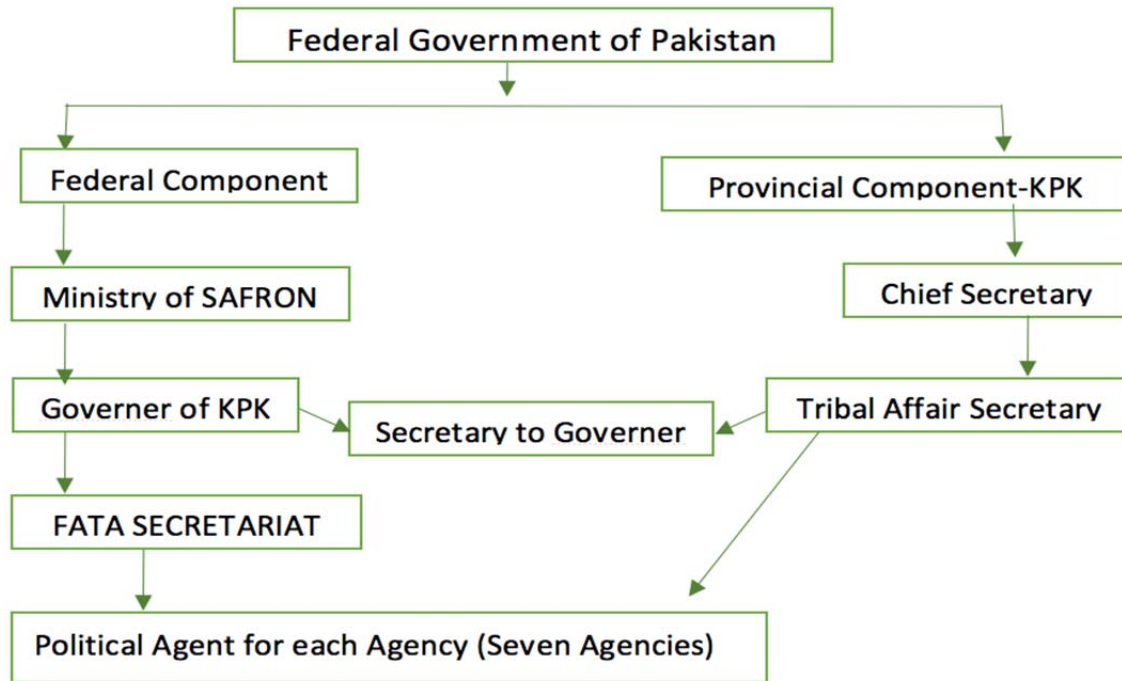
As head of the provincial bureaucracy—the chief secretary of KPK—and the tribal affairs secretary conduct liaison between the governor and chief minister of KPK to oversee the administrative and financial management and governance of FATA districts in consultation with the FATA Secretariat and Ministry of SAFRON.<sup>69</sup> Figure 3 depicts the existing organization of the administrative system the FATA.

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<sup>68</sup> Cheema, *Federally Administered Tribal Areas of Pakistan*, 49.

<sup>69</sup> “Misgovernance –Radicalization Nexus in Pakistan,” 94.

Figure 3. FATA's Administrative System.<sup>70</sup>



Pakistan's Constitution empowers the president to decree regulations for administration and governance of FATA.<sup>71</sup> The governor of KPK, to administer the seven agencies of FATA, appoints a chief bureaucrat in each agency, who is called a political agent. The office of the political agent retains absolute executive, financial, and judicial powers.<sup>72</sup> The political agent for each tribal agency or administrative district governs each respective tribal agency through various subordinate officials known as assistant political agents, sub-division officers (*tehsildar*), and lower sub-division officers (*naib-tehsildars*).<sup>73</sup> Political agents, through their subordinate staff, regulate trade, inter-tribe land ownership issues, and plan, approve, and supervise development projects. All

<sup>70</sup> Adapted from Muhammad Tayyab Ghafoor, "Impediments Involved in the Integration of FATA in the National Mainstream of Pakistan" (master's thesis, U.S. Army Command and General Staff College, Fort Leavenworth, Kansas, 2009).

<sup>71</sup> "The Constitution of the Islamic Republic of Pakistan."

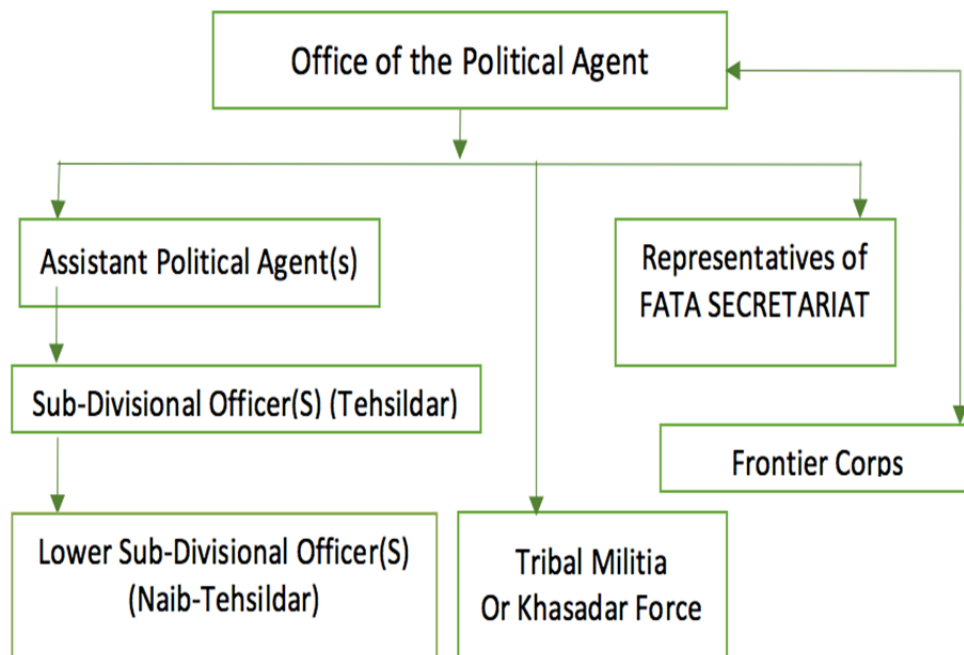
<sup>72</sup> "Pakistan: Countering Militancy in FATA, Asia Report," International Crisis Group, 2009, 2, accessed October 14, 2016, <https://www.crisisgroup.org/asia/south-asia/pakistan/pakistan-countering-militancy-fata>.

<sup>73</sup> Mohsin A. Malik, "Information Operations and FATA Integration into National Mainstream" (master's thesis, Naval Postgraduate School, Monterey, California, 2012), 10.

political agents of FATA’s agencies coordinate financial and development issues with the governor of KPK through the FATA Secretariat, and the Ministry of SAFRON oversees FATA’s administration as a federal agency.<sup>74</sup>

To enforce governmental interests and policies, FATA’s administration, headed by the political agent, is assisted by the local militia or police force known as Khasadars, and staffed by local tribesmen of each respective tribal district of FATA. In addition to the approximately 16,000-man Khasadar force,<sup>75</sup> federal law enforcement agencies including a paramilitary force—Frontier Corps—and Pakistan Army also act when summoned as an aid to civil power. Figure 4 highlights the organization of the political agent’s office in each of the FATA’s agencies.

Figure 4. Office of the Political Agent.<sup>76</sup>



<sup>74</sup> Raza Rahman Khan, “Local Government System in FATA,” *FATA Research Journal*, (2014): 133, accessed October 16, 2016, <http://frc.org.pk/wp-content/uploads/2014/01/Research-Paper-7.pdf>.

<sup>75</sup> Moeed Yousaf, *Pakistan’s Counterterrorism Challenge* (Washington, D.C.: Georgetown University Press, 2014), 107.

<sup>76</sup> Adapted from “Pakistan: Countering Militancy in FATA, Asia Report,” International Crisis Group, 2009.



Beyond political agents, tribal elders—*maliks*—are another significant component of FATA’s existing administrative system. As part of colonial legacy, with the consent of the governor of KPK, the political agents in each tribal agency nominate tribal *maliks*. Representing their respective tribes, these *maliks*, act as the tribes’ spokespeople and provide liaison while interacting with office of the political agents in the tribal districts. In consultation with political agents, the co-opted tribal *maliks* provide passage security, suppress crimes, ensure border control, and assist government officials in implementation of state policies in their respective tribal area of influence.<sup>77</sup> As a recognition of loyalty to the state, the state of Pakistan awards monthly allowances and provides subsidies to the approximately 3,600 *maliks*.<sup>78</sup> The *maliks* use these resources to manage the tribal affairs and ensure their dominance over their clans.<sup>79</sup>

The status of *malik* is passed on to the next generation through male inheritance; however, the office of the political agent can cancel or suspend the status due to a *malik*’s inability to uphold the state interests.<sup>80</sup> To retain their influence over nomadic society, the *maliks* accumulate material resources and conduct lobbying with the state administration in FATA and governor of KPK province.

## **B. FATA’S CURRENT POLITICAL STRUCTURE**

At the national level, FATA’s political representation is limited to the national parliament only. Twelve members represents FATA in the lower house of parliament—the National Assembly. These members are selected through adult suffrage. In contrast, the eight members, representing FATA in the upper house—the Senate—are selected by the members of the National Assembly.<sup>81</sup> This indirect selection for Senate has led to corruption and malpractice, thereby enabling the corrupt and rich elite to dominate the electoral process. Political parties can not openly campaign due to the influence of radical

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<sup>77</sup> Hugh Beattie, *Imperial Frontier: Tribe and State in Waziristan* (New York: Routledge, 2013), 34.

<sup>78</sup> Malik, “Information Operations and FATA Integration into National Mainstream,” 11.

<sup>79</sup> Claude Rakisits, “Pakistan’s Tribal Areas: A Critical No-Man’s Land,” paper presented at the Webster University Forum, Geneva, April 25, 2008.

<sup>80</sup> “Pakistan: Countering Militancy in FATA, Asia Report,” 3.

<sup>81</sup> “The Constitution of the Islamic Republic of Pakistan.”

religious elements.<sup>82</sup> Nomadic traditions limit women's participation in politics. FATA does not have any internal system for legislation, because there is no local government system in FATA.<sup>83</sup>

FATA is comprised of seven tribal agencies: Bajaur, Mohmmmand, Khyber, Kurram, Orakzai, North Waziristan, and South Waziristan. Table 1 depicts the area, population, and tribal profile of FATA's agencies.

Table 1. FATA—Profile of Agencies.<sup>84</sup>

| Agency           | Area  |       | Population-1998 Census |      | Major Tribes                   |
|------------------|-------|-------|------------------------|------|--------------------------------|
|                  | Km    | %     | Million                | %    |                                |
| Bajaur           | 12,90 | 4.74  | 0.595                  | 18.7 | Utmankhel and Tarkhani         |
| Mohmmmand        | 2,296 | 8.43  | 0.334                  | 10.5 | Mohmmmand, Safi, and Utmankhel |
| Khyber           | 2,576 | 9.46  | 0.547                  | 17.2 | Afridi, Shelmani, and Shinwari |
| Kurram           | 3,380 | 12.42 | 0.448                  | 14.1 | Maqbal, Mengal, and Banghash,  |
| Orakzai          | 1,538 | 5.64  | 0.225                  | 7.1  | Mishti, Ferozekhel, and Bizoti |
| North Waziristan | 4,707 | 17.29 | 0.361                  | 11.4 | Utmanzai, Wazir, and Dawar     |
| South Waziristan | 6,620 | 24.32 | 0.430                  | 13.6 | Mahsood, Ahmadzai, and Wazir   |

Despite FATA's representation in both the lower and the upper houses of parliament—the National Assembly and the Senate—Pakistan's existing political structure prohibits the parliament to formulate any FATA-related legislation. Thus, FATA's representatives in parliament influence and contribute to the formulation of

<sup>82</sup> Asmatullah Khan and Muhammad Zaheer Khan, "Mainstreaming FATA through Legal and Political Reforms," *Journal of peace and Development*, IV (January 2014):30, accessed August 27, 2016, <http://frc.com.pk/wp-content/uploads/2014/01/Research-Paper-2.pdf>.

<sup>83</sup> Khan, "Local Government System in FATA," 135.

<sup>84</sup> Adapted from "Report of the Committee on FATA Reforms 2016," 46.

federal government and legislation applicable to the entire country of Pakistan—except FATA.<sup>85</sup>

Twelve members represent FATA in Pakistan's National Assembly, which consists of 342 members from all provinces and federal territories.<sup>86</sup> Prior to 1997, the electoral college, comprising 35,500 *maliks* from FATA, selected these members.<sup>87</sup> However, since 1996, and after promulgation of the Adult Franchise Act in FATA, these members have been selected through direct elections.<sup>88</sup> The members of the National Assembly elect eight members to represent FATA in the Senate.<sup>89</sup>

In the elections of 1997, 2002, and 2008, FATA's representative for national assembly contested these elections as independent candidates without any political parties' affiliation. After extension of the Pakistan Political Parties Act to FATA in 2011, the political parties of Pakistan actively participated in the national assembly general elections of 2013 for the selection of 12 representatives from FATA. Various religious and mainstream political parties held meetings to mobilize voters in various tribal agencies. According to the election commission of Pakistan, the voter turn-out in the elections in 2013 increased to 36 percent, as compared to 31 percent in the elections of 2008.<sup>90</sup> Figure 5 highlights the political structure of the FATA.

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<sup>85</sup> Naghma Parveen, Humaira Arif Dasti, and Abdul Rashid Khan, "FATA Needs Radical Reforms in FATA Administration in Order to Include in Mainstream of Pakistan's State," *South Asian Studies*, 31, no. 1 (2016): 89–91, accessed October 1, 2016, <http://pu.edu.pk/home/journal/9/Current-Issue.html>.

<sup>86</sup> "Composition-National Assembly," National Assembly of Pakistan, September 2016, accessed September 22, 2016, <http://www.na.gov.pk/en/composition.php>.

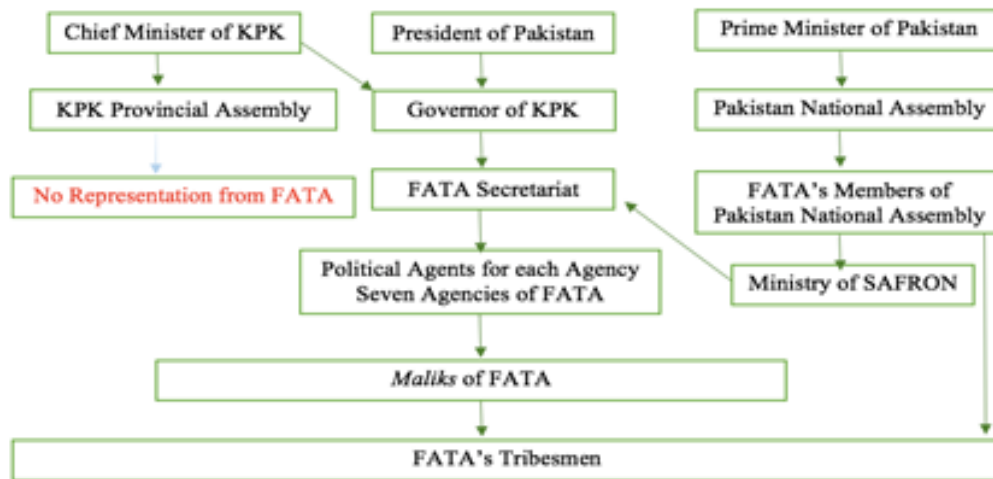
<sup>87</sup> "Pakistan: Countering Militancy in FATA, Asia Report," 4.

<sup>88</sup> Mehreen Farooq, Hedieh Mirahmedi, and Waleed Ziad, "Developing FATA, A White Paper for USAID," paper prepared for United States Agency for International Development, December 4, 2009, <http://www.worde.org/wp-content/uploads/2011/12/DevelopingFATA.pdf>.

<sup>89</sup> "The Constitution of the Islamic Republic of Pakistan."

<sup>90</sup> Umer Sajjad, "Political Development in Federally Administered Tribal Areas (FATA): A Step to Minimizing Extremism and Radicalization," *FATA Research Journal*, 3 (2013): 87, accessed August 22, 2016, <http://frc.org.pk/wp-content/uploads/2013/07/journal-vol-3-dated-July-04-20134.pdf>.

Figure 5. FATA's Political Structure.<sup>91</sup>



### C. FATA'S CURRENT JUDICIAL STRUCTURE

According to the FATA-related constitutional provisions, all administrative and criminal regulations enforced in other provinces are not applicable to FATA. In contrast to the rest of Pakistan, the constitution of Pakistan deprives FATA's tribesmen from a formal judicial system, and nomadic and FCR-centric judicial structure is imposed upon FATA. The current judicial system in FATA is a mix of the traditional tribal courts system, political agents' office, and FCR.

According to the constitution, FATA's tribesmen are not entitled to approach Pakistan's apex courts—both High Court and Supreme Court—and lower courts for administration of justice.<sup>92</sup> The political agents in FATA act as judicial magistrates, and enforce FCR to administer justice on matters pertaining to both the interests of the state and FATA's tribesmen to include trade, commerce, and taxation, etc.<sup>93</sup> FCR entrusts enormous judicial powers to political agents' offices that include: confiscation of property; and forced exile and collective tribal punishment.<sup>94</sup> Political agents enforce their decisions through Khasadars and co-opted tribal *maliks*.

<sup>91</sup> Adapted from Farooq, Mirahmedi, and Ziad, "Developing FATA," 9–11.

<sup>92</sup> "The Constitution of the Islamic Republic of Pakistan."

<sup>93</sup> Parveen, Dasti, and Khan, "FATA Needs Radical Reforms," 92.

<sup>94</sup> Ibid.

While administering justice, the current judicial structure in FATA follows tribal tradition and FCR instead of Pakistan Penal Code. The *Jirga*—the local court—is an assembly of tribal elders that administers justice in inter and intra tribal disputes. *Jirga* provides justice and resolves disputes in line with nomadic traditions known as *Riwaj*.<sup>95</sup> James W Spain explains: “A Jirga in its simplest form is merely an assembly. Practically all community business, both public and private, is subject to its jurisdiction. In its operation, it is probably the closest thing to Athenian democracy that has existed since the original. It exercises executive, judicial, and legislative functions, and yet as an instrument for arbitration and conciliation.”<sup>96</sup> In these *Jirgas*, the *Pashtunwali*, the tribal code of conduct, takes preference over the laws of *Shariah*—*Islamic laws*—based on religious principles. Table 2 explains the various types of *Jirgas* and their jurisdiction.

Table 2. FATA—Types of *Jirgas*.<sup>97</sup>

| Type   | Composition  | Jurisdiction   |
|--|--|--|
| Olasī or Qaumi or Informal Representative’s <i>Jirga</i> . | Elders of a certain tribe or community.            | Disputes involving property rights, business, agriculture, and tribe’s other internal issues.                      |
| Loya or Grand <i>Jirga</i>                                 | Tribal leaders, political and religious leaders.   | Issues related to international policy to include selection of new leader, declaration of war, and peace treaties. |
| Sarkari or Official FCR <i>Jirga</i>                       | Political agents and state-nominated <i>maliks</i> | Civil and criminal cases involving state and the tribesmen.  |

<sup>95</sup> Rahimullah Yusufzai, “Circled in Controversy,” *News Line*, August 2002, accessed August 24, 2016, <http://newslinemagazine.com/magazine/circled-in-controversy/>.

<sup>96</sup> James William Spain, *The People of the Khyber: The Pathans of Pakistan* (New York: Praeger, 1963), 143.

<sup>97</sup> Adapted from “Reforming the *Jirga* System: Sensitization on Fundamental Human Rights,” Community Appraisal & Motivation Programme, 2013, 17–20, accessed October 27, 2016, <http://www.camp.org.pk/wp-content/uploads/2016/03/Jirga-manual-final-Eng.pdf>.

#### **D. RECENT ADMINISTRATIVE, POLITICAL, AND JUDICIAL REFORMS IN FATA**

During the last two decades, after Afghan-Soviet war, and due to international pressure in the aftermath of 9/11, the political and security establishment of Pakistan has focused on addressing the deteriorating security situation in FATA. After 2001, the Pakistan government, in consultation with tribal elders, retired government officials, and scholars, devised a FATA reform package to improve various administrative and governance aspects of FATA; however, FATA's bureaucratic power structure based on FCR, the fragile security situation, and ongoing military operations have stalled the true letter and spirit in the implementation of these reforms.

Pakistan's federal administration promulgated the Adult Franchise Act of 1996 to grant voting rights to the people of FATA,<sup>98</sup> and in 2002 established the FATA Secretariat to streamline various development projects. In 2011, through a presidential order, the Pakistan Peoples Party's (PPP) federal government approved FCR amendments that modified legal protection, prison regulations, and the FATA tribunal and financial audit laws for FATA.<sup>99</sup>

As a substitute for a high court in FATA, the government also constituted the FATA Tribunal, an appellate body to review decisions of political agents in the judicial domain. The governor of KPK appoints members of the FATA Tribunal for a duration of three years. The FATA Tribunal consists of a chairman—a senior federal bureaucrat—and three other members with requisite legal expertise.<sup>100</sup> The federal government introduced the Political Parties Act of 2011<sup>101</sup> to enable Pakistani political parties to contest general elections and also extended the Federal Ombudsman's jurisdiction to FATA in 2013. Most of the announced reforms pertained to the FATA's political, judicial, and development aspects; however, the government refrained from altering the

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<sup>98</sup> Khan and Khan, "Mainstreaming FATA through Legal and Political Reforms," 29.

<sup>99</sup> Altaf Ullah, "Governance Reforms in FATA of Pakistan: The Past and Present," *Journal of Political Studies*, 22 (2015): 227–229, accessed October 17, 2016, [http://pu.edu.pk/images/journal/pols/pdf-files/14%20-%20ALTAF\\_22\\_2015.pdf](http://pu.edu.pk/images/journal/pols/pdf-files/14%20-%20ALTAF_22_2015.pdf).

<sup>100</sup> Ullah, "Governance Reforms in FATA of Pakistan," 228.

<sup>101</sup> Sajjad, "Political Development in Federally Administered Tribal Areas," 85.

FCR-centric essential administrative structure of FATA.<sup>102</sup> Moreover, growing terrorism and subsequent military operations prevented implementation of the proposed reform package.

During President Pervez Musharraf's military regime, the only significant endeavor to improve the local administrative management of FATA occurred in 2005, with the formation of the Agency Council comprising local tribal representatives in 2005. The elected Agency Council was intended to act as a local government to undertake development and socio-economic uplift of FATA. However, bypassing the electoral process, the governor of the KPK nominated handpicked *maliks* as members of the council, thus depriving the local tribesmen of their basic electoral rights. Moreover, the Agency Council was not given any administrative and financial powers, and its role was transformed into an advisory body; thus, the creation of Agency Council proved futile.<sup>103</sup>

#### **E. ANALYSIS OF FATA'S CURRENT ADMINISTRATIVE, POLITICAL, AND JUDICIAL SYSTEMS**

Under the prevailing environment in FATA, the tribesmen are victims of the corruption of political administration and *maliks*. The nexus of the political administration and tribal elite abuses the unaccountable governance system that alienates the local population in the formulation and implementation of policies. Prior to the current military operations, FATA's administration lost power to the Taliban and its area of influence was significantly curtailed. However, the political administration has continued to retain its control over development and administrative funds to continue manipulation of finances for their illegitimate personal gains.<sup>104</sup>

The alienation of tribesmen from local management, limited capacity of law enforcement agencies, and corruption of political agents and *maliks*, led to environments conducive to the rise and strengthening of militancy throughout the FATA. Taliban militants targeted and killed hundreds of state-loyal *maliks* and co-opted other *maliks* to

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<sup>102</sup> "Misgovernance –Radicalization Nexus in Pakistan," 93.

<sup>103</sup> Khan, "Local Government System in FATA," 136.

<sup>104</sup> "Pakistan: Countering Militancy in FATA, Asia Report," 11.

establish their control in FATA.<sup>105</sup> As a result, Taliban militants, through violence and carnage, hijacked the tribal power structure, and *maliks* were replaced by the Taliban to become power brokers in FATA. Amid state-sponsored jihad, Taliban leaders accumulated power and authority through exploitation of the economic, tribal, and sectarian divide of FATA's tribesmen. The administrative elite of FATA districts, due to inherent structural limitations and interference from the security establishment, not only failed to provide protection to local tribesmen, but at times were forced to negotiate peace deals with the Taliban for their own survival.<sup>106</sup>

The FCR-based governance system in FATA has promoted the central authority of and provided absolute powers to the bureaucratic cadre led by political agents. The existing system grants enormous authority to these political agents that include the executive, judicial, and revenue powers. The decentralization of power at the grassroots level is essential to empower the local population to shape a deliberate and effective system.

As a direct obstacle to implement reforms, the administrative bureaucracy forestalls any effort of the state to affect change, and lobbies to maintain the status quo to preserve its imperial authority. Despite the creation of the Agency Council in FATA, the political administration contested the grant of planning and financial authority to the FATA Council.<sup>107</sup> The administration of FATA also resisted the creation of the local government system to retain its administrative monopoly over FATA.<sup>108</sup> The creation of local councils at various tiers would affect transfer of powers from the political agent's office to elected bodies and undermine the bureaucratic authority. The persistence of the status quo enables the administration to continue its misappropriation and exploitation of resources for personal enrichment.

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<sup>105</sup> "Pakistan: Countering Militancy in FATA, Asia Report," 4.

<sup>106</sup> Ahmed Rashid, "Pakistan 'Crisis Hits Army Morale,'" *News British Broadcasting Corporation*, September 13, 2007, accessed October 21, 2016, [http://news.bbc.co.uk/2/hi/south\\_asia/6978240.stm](http://news.bbc.co.uk/2/hi/south_asia/6978240.stm).

<sup>107</sup> Khan, "Local Government System in FATA," 135.

<sup>108</sup> *Ibid.*, 137.



Amid asymmetric warfare, the Pakistan military's inability to differentiate between friends and foe has led to serious human rights violations in FATA, contrary to UN declarations.<sup>109</sup> From 2008 to 2015, excessive use of force by the military violated basic human rights, which created resentment amongst the tribesmen against the military. In June 2011, the federal government of Pakistan authorized its military to conduct operations as Action in Aid to the Civil Power.<sup>110</sup> Action in Aid to the Civil Power authorized the military to arrest and detain any individual on suspicion of terrorism links and confiscate land and other material resources without any legal proceedings. The Action in Aid to the Civil Power deprived the FATA tribesmen of their fundamental human rights contrary to the United Nations Universal Declaration of Human Rights.<sup>111</sup> These frequent violations of human rights by security agencies damaged the tribesmen's trust in the state.

In addition to the lack of education and infrastructure, no print or electronic media exists in FATA to counter the militants' propaganda, which is mostly on the radio. The majority of the population relies on radio; only a few influential elites have access to satellite television. In developed and developing societies, media plays a significant role in providing information and creating awareness among the general public. The constitution of Pakistan accords rights to its citizens for access to information; but as the constitution of Pakistan does not apply to FATA, FATA's population is deprived of any such rights—and of access.

Because FATA does not possess its own public service mechanism, the policies of extra-territorial administration do not correspond to the requirements of FATA. The officers' cadre of the political administration and FATA Secretariat is selected from the federal and provincial bureaucracy. Government bureaucrats are selected through federal

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<sup>109</sup> "Article 22 of the Universal Declaration on Human Rights 1948," United Nations Human Rights Office of the High Commissioner, accessed September 4, 2016, [http://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf); and "International Covenant on Economic, Social, and Cultural Rights 1966," United Nations Human Rights Office of the High Commissioner, accessed September 4, 2016, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

<sup>110</sup> Ullah, "Governance Reforms in FATA of Pakistan," 230. Despite its approval in 2011, the Action in the Aid to Civil Power law was promulgated with effect from 2008 to provide legal cover for past human right violations from 2008 to 2011.

<sup>111</sup> "Misgovernance–Radicalization Nexus in Pakistan," 126.

and provincial competitive academic examination from all over Pakistan. Due to better academic background, a majority of selected government officials hail from settled districts of Pakistan and representation of FATA's population is negligible.<sup>112</sup> The influential families of FATA have moved to major cities for higher education and do not return to FATA due to deteriorating law and order conditions. Therefore, educated and skilled indigenous manpower in FATA is not available to replace the existing political administration hailing from other parts of Pakistan. Thus, the government officials, responsible for formulating governance strategies lack understanding of FATA's complicated structural shortfalls.

In addition, the FATA Secretariat is located at Peshawar, away from FATA, and the majority of officials are unaware of FATA's problems, priorities, and requirements. Owing to inherent ignorance of administrative officials, government policies are aimed to establish territorial control, instead of winning hearts and minds of tribesmen and absorbing FATA into Pakistan's state system.

The federal and FATA establishments fear erosion in its imperialistic authority if elected representatives in FATA are empowered.<sup>113</sup> The indigenous representatives may reduce the state's co-opting capability to implement its policies in FATA. FATA's administration failed to adopt policy measures to improve socio-economic conditions. Unlike the rest of Pakistan, under the FCR and constitutional arrangements, seven agencies of FATA remained deprived of elected government institutions at all tiers including agency, divisional, and sub-divisional levels. In FATA, no indigenous mechanism exists to formulate laws for its administration, creating a political, governance and legal vacuum. The nonexistent local government system has affected the enforcement of law and order that has helped the Taliban to thrive while exploiting the poverty-ridden, unemployed tribesmen.<sup>114</sup>

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<sup>112</sup> Khan, "Local Government System in FATA," 140.

<sup>113</sup> Ibid, 136.

<sup>114</sup> Ibid., 137–138.

Although the political reforms of the last two decades were aimed at generating an inclusive political process in FATA, these reforms have proved futile; the FCR-centric imperialistic structure continues to dominate the socio-political management of FATA. Pakistan's current constitutional framework restricts parliament from any legislation concerning FATA.

Moreover, the absence of FATA's integral provincial assembly or representation in KPK also denies tribesmen the right to formulate policies relating to local government. In addition, the absence of an election regulation mechanism in FATA has led to corruption and malpractice, thereby enabling the corrupt and rich elite to dominate its politics. Moreover, under the current security situation, the political parties can not openly campaign due to the influence of radical religious elements. The nomadic traditions of FATA also limit women's participation in politics and elections. The tribal norms and religious ideology promote male dominance and curtail women's participation in politics.

The constitution of Pakistan separates the legislative, executive, and judicial branches of the government, whereas, FCR vests all governmental powers in the political agent's office. The current judicial system comprising nomadic tribal *Jirgas* and political agents administers justice with traditional and executive authority. The relevant clauses of the Pakistan Criminal Act are not applicable to FATA. The people of FATA do not have access to any state institution to challenge the Jirga's verdicts.<sup>115</sup> The FATA's Tribunal, led by the bureaucrats, has not been able to safeguard basic human rights under the FCR-centric FATA. The Supreme Court's 1993 FCR-related decision observes that the "mere existence of a tribal society or a tribal culture does not by itself create a stumbling block in the way of enforcing ordinary procedures of criminal law, trial and detention which is enforceable in the entire country."<sup>116</sup>

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<sup>115</sup> Khan and Khan, "Mainstreaming FATA through Legal and Political Reforms," 40.

<sup>116</sup> Verdict: Government of Baluchistan v. Azizullah, *The All-Pakistan Legal Decisions* (Islamabad: The Supreme Court of Pakistan, 1993), 341–461.

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#### **IV. FATA’S EXISTING ECONOMIC MANAGEMENT SYSTEM**

Poverty and deprivation help spread terrorism, and similarly terrorism affects the socio-economic development of a society. The economic plight of FATA is both symptom and cause of its marginality. The Taliban and Al Qaeda have exploited the existing economic deprivation of FATA’s tribesmen through economic incentives.<sup>117</sup> In the last seven decades since Pakistan’s independence, the settled areas of Pakistan—governed in accordance with the constitution of Pakistan—have achieved significant socio-economic progress, while FATA remained deprived of any socio-economic uplift. FATA’s marginality from mainstream Pakistan promoted and bred terrorism that further worsened the economic situation. After 9/11, the ongoing GWOT in Pakistan’s FATA and Afghanistan has further deteriorated the socio-economic conditions of the residents of FATA. Despite ousting the Taliban from FATA, Pakistan has not been able to revive the economy of FATA because of the lack of formal institutions.

Contrary to internationally recognized economic principles,<sup>118</sup> the government of Pakistan, for more than half a century, has neglected the socio-economic development of the FATA due to its own economic constraints, lack of political will, and security concerns. The economic uplift, independence, and prosperity of FATA’s populace would significantly help in the attainment of peace and stability in FATA, Pakistan, and the region. This chapter examines the current economic status of FATA, and evaluates factors contributing to its deteriorating socio-economic conditions. This chapter also analyzes the economic potential and prospects of FATA.

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<sup>117</sup> “Pakistan: Countering Militancy in FATA, Asia Report,” 10.

<sup>118</sup> “Article 22 of the Universal declaration on Human Rights 1948.” and “International Covenant on Economic, Social, and Cultural Rights 1966.”

## A. OVERVIEW OF FATA’S EXISTING ECONOMIC CONDITIONS

FATA’s economy is agrarian, and agriculture is limited to valleys where irrigational water, from local streams and rivers, is easily available. According to 2004 estimates, only 7 percent of FATA was under cultivation, with 44 percent under an irrigation network; the rest of the arid areas are dependent of rainfall.<sup>119</sup> Table 3 indicates land use in FATA.

Table 3. Agriculture Land Use in FATA.<sup>120</sup>

| Land Use            | Area (Hectors) |
|---------------------|----------------|
| Total Reported Area | 2,722,042      |
| Cultivated Area     | 199,530        |
| Irrigated Area      | 87,101         |
| Forests             | 46,202         |
| Uncultivated Area   | 2,468,512      |

The political agents of the seven tribal agencies still manage socio-economic issues in consultation with *maliks*. The political agents’ economic functions include regulation of trade, natural resources, and approval, supervision, and management of development projects.<sup>121</sup> Under the existing system, the political agents enjoy extreme financial autonomy with no auditing body in FATA to supervise the policy-making process and utilization of finances.

In the last two decades, in a bid to eradicate poverty, the federal government of Pakistan has also enhanced the resource allocation for the socio-economic development of FATA. The federal budget of 2003–2004 allocated US\$30 million for FATA, whereas, during financial year 2008–2009 US\$80 million,<sup>122</sup> and in the year 2016–2017, US\$180

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<sup>119</sup> Farooq, Mirahmedi, and Ziad, “Developing FATA,” 12.

<sup>120</sup> Adapted from “FATA Sustainable Development Plan 2007–2015,”

<sup>121</sup> Farooq, Mirahmedi, and Ziad, “Developing FATA,” 11.

<sup>122</sup> Naveed Ahmed Shinwari, *Understanding FATA: 2011* (Islamabad: Community Appraisal & Motivation Program, 2012), 22, accessed September 5, 2016, [http://www.understandingfata.org/uf-volume-v/Understanding\\_FATA\\_Vol-V-11.pdf](http://www.understandingfata.org/uf-volume-v/Understanding_FATA_Vol-V-11.pdf).

million were allocated for the development of FATA.<sup>123</sup> The FATA Secretariat and FATA Development Authority work with various international donor agencies like USAID<sup>124</sup> and the Multi Donor Trust Fund<sup>125</sup> in socio-economic projects of mutual interest in FATA.

FATA does not have any mechanism to generate revenue or levy taxes to meet administrative expenses and execute development projects. FATA Secretariat depends on Pakistan's federal government for allocation of resources to meet the aforementioned expenses.<sup>126</sup> Therefore, amid the other demands of GWOT on Pakistan's fragile economy, Pakistan has to bear the cost of a decade-long war in FATA.

After 9/11, Pakistan government undertook certain measures for socio-economic development of FATA. The governor of KPK, as representative of the federal government, coordinates the economic and other functions of FATA Secretariat. The FATA Secretariat, comprising various departments and directorates, was established in 2002.<sup>127</sup> The FATA Development Authority was created in 2006 to overcome financial and management deficiencies in the governance of FATA.<sup>128</sup>

These departments were created to identify, evaluate, plan, and implement the immediate, medium-term, and long-term projects.<sup>129</sup> The FATA Secretariat includes, "health, education, forestry, fisheries, irrigation, livestock, minerals and technical education, agriculture, sports, social welfare, and roads and other infrastructure

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<sup>123</sup> "KP Governor Approves Rupees 18 Billion Budget for FATA," *The News*, June 30, 2016, accessed September 20, 2016, <https://www.thenews.com.pk/print/131782-KP-governor-approves-Rs18-bn-ADP-budget-for-Fata>.

<sup>124</sup> "FATA Development Authority Official website," Government of Pakistan, accessed September 17, 2016, <http://fatada.gov.pk/partners/usaidd/>.

<sup>125</sup> "FATA Development Authority Official website," Government of Pakistan, accessed September 19, 2016, <http://fatada.gov.pk/partners/the-multi-donor-trust-fund-mdtf/>.

<sup>126</sup> Farooq, Mirahmedi, and Ziad, "Developing FATA," 10.

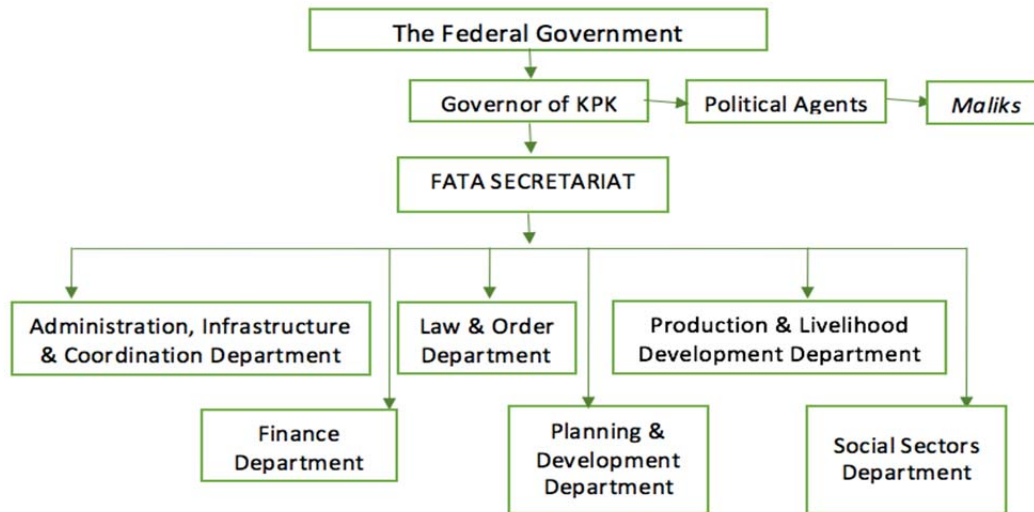
<sup>127</sup> Shinwari, *Understanding FATA*: 2011, 21.

<sup>128</sup> "FATA Development Authority Official website," Government of Pakistan, accessed September 5, 2016, <http://fatada.gov.pk/about-us/>.

<sup>129</sup> Farooq, Mirahmedi, and Ziad, "Developing FATA," 10.

development directorates.”<sup>130</sup> Figure 6 explains the organization of departments within the FATA Secretariat.

Figure 6. The Organization of FATA Secretariat.<sup>131</sup>



## B. FATA’S PREVAILING SOCIO-ECONOMIC CONDITIONS

The divergence in socio-economic indicators between FATA and the rest of Pakistan suggests that the FATA is the most underdeveloped, poorest area in Pakistan. The population of FATA lacks education, healthcare, infrastructure, and technical and industrial skills; therefore, trade, commercial, and industrial activities are very limited.<sup>132</sup> Amid the lack of administrative infrastructure and limited access—due to security concerns—of non-government organizations and independent institutions to FATA,

<sup>130</sup> Shinwari, *Understanding FATA*: 2011, 21–23

<sup>131</sup> Adapted from Shinwari, *Understanding FATA*: 2011.

<sup>132</sup> “FATA Sustainable Development Plan 2007–2015,” Civil Secretariat FATA, Peshawar, 2005, 5–20, accessed September 24, 2016, [http://urban.unhabitat.org.pk/Portals/0/Portal\\_Contents/FATA/Landi%20Kotal/FATA%20Sustainable%20Dev%20Plan%202007-2015.pdf](http://urban.unhabitat.org.pk/Portals/0/Portal_Contents/FATA/Landi%20Kotal/FATA%20Sustainable%20Dev%20Plan%202007-2015.pdf). The population of FATA has only a 17-percent literacy, with female literacy a mere 3 percent. The limited number of schools in FATA lack staff, students, and basic educational amenities leading to a high rate of dropouts from already low enrollment. In the absence of doctors, unregistered health practitioners provide health care, and patients are served with substandard and counterfeit medicines. In FATA, the doctor-population ratio is 1:7670 as compared to 1:1226 in the rest of Pakistan.



government departments, with limited reliability, are the only source of data about FATA. The Multidimensional Poverty Index of Pakistan indicates uneven progress in different parts of Pakistan. Some 73 percent of the population of FATA lives below the poverty line compared with a national average of 39 percent in Pakistan.<sup>133</sup> Table 4 highlights the socio-economic indicators of FATA.

Table 4. Socio-economic Indicators of FATA and Pakistan.<sup>134</sup>

| Indicator                                       | Pakistan | FATA  |
|---|----------|-------|
| Population density (per square km)              | 166      | 117   |
| Irrigated area as percentage of cultivated area | 82       | 40    |
| Population per irrigated hectare                | 9        | 44    |
| Literacy rate (%) (1998)                        | 45       | 17.42 |
| Male  | 56.5     | 29.5  |
| Female  | 32.6     | 3     |
| Primary enrollment rate (%)                     | 86       | 38    |
| Population per doctor                           | 1,404    | 7,670 |
| Population per hospital bed                     | 1,737    | 2,290 |
| Roads per square km of area                     | 0.32     | 0.2   |
| Average household size (persons)                | 6.8      | 9.3   |
| Urban population as percentage of total         | 32.5     | 2.7   |

Since 2006, the intense military operations in FATA and displacement of FATA's population have severely affected the already declining agriculture. In most of FATA, farmers follow old agriculture techniques and yield only one crop from cultivated units:

<sup>133</sup> Amin Ahmed, "39 Percent of Pakistanis Live in Poverty: FATA, Baluchistan Worst Hit," *Daily Dawn*, June 21, 2016, accessed August 15, 2016, <http://www.dawn.com/news/1266171>.

<sup>134</sup> Adapted from "FATA Sustainable Return and Rehabilitation Strategy," 10.

per-hectar production in FATA is 38 percent less than in the rest of Pakistan.<sup>135</sup> Livestock rearing and poultry are essential elements of FATA's agricultural economy; however, shortage of green pastures and fodder, and the absence of veterinary services have had adverse effects.

All seven agencies of FATA lack industrial infrastructure to provide indigenous industrial goods and employment opportunities to the population. Only a few privately owned firms, encompassing approximately 10,000 industrial workers, exist that deal in stone processing, furniture manufacturing, mineral extraction, textile weaving, and weapons production.<sup>136</sup> Due to the absence of any economic management institutions, the FATA's economy is widely undocumented. The State Bank of Pakistan and other financial institutions do not extend loans to FATA's people to establish businesses and industry.<sup>137</sup> Amid the lack of an industrial base, the majority of the skilled workforce has migrated to the Middle East and other countries. Pakistan's Labor Migration Status Report for 2015 indicates that 5.1 percent of its overseas immigrants belonged to FATA as compared to FATA's 2.3 percent share of Pakistan's population.<sup>138</sup> After agriculture, the other major source of income for the population of FATA is trade and commerce. FATA's people mostly have retail and wholesale trade, services, transport, and businesses related with Afghanistan Transit-Trade.<sup>139</sup> Opium cultivation, processing, and trafficking, although recently curtailed, has been a traditional part of FATA's economy.

Like other socio-economic amenities, FATA also lacks power and communication infrastructure as compared to the rest of the country. Only 6 percent of households have access to the power supply; extended power interruptions and low voltage are a common phenomenon that affects industrial growth and production.<sup>140</sup> In the mountainous terrain

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<sup>135</sup> "FATA Sustainable Development Plan 2007–2015," 7.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> "Labour Migrations from Pakistan: 2015 Status Report," Ministry of Overseas and Human Resource Development, 2015, accessed November 8, 2016, [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms\\_514139.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_514139.pdf).

<sup>139</sup> "FATA Sustainable Development Plan 2007–2015," 20.

<sup>140</sup> Ibid.

of FATA, there is an acute shortage of high quality roads to connect remote areas with towns and cities. FATA's road density is 0.17 per kilometer, whereas, Pakistan's average is 0.26 per kilometer.

### **C. FACTORS CONTRIBUTING TO FATA'S ECONOMIC DETERIORATION**

Citizens' trust and loyalty to their respective states have linkages to the socio-economic amenities they derive from the state; anti-state actors—the Taliban—have exploited the diminishing economic rights of the people in FATA. The population's economic independence and access to social amenities significantly affect the people's loyalty toward the concurrent modern state system. The prevailing socio-economic indicators, despite the organizational and financial endeavors of Pakistan's government, depict deteriorating conditions. Recent institutional capacity building and enhanced financial allocation by the federal government have not been able to bridge the decades-old development gap in FATA.

Multiple factors contribute to the deteriorating economic situation in FATA, and these include the absence of administrative structure; corruption of political agents and FATA's political and social elite; impact of ongoing military operations and resultant IDPs; paucity of industries, communication, and power infrastructure; lack of formal and technical education; and unemployment and brain drain. In the absence of an effective audit mechanism, political agents and *maliks* have engaged in corruption and misappropriation of already meager funds. These *maliks* identify the type and site for development projects, nominate contractors, and gain huge economic benefits at the cost of quality, utility, and development of the local population.<sup>141</sup> This financial malpractice enables the tribal elite to accumulate money and subsequently dominate politics, leaving the population subject to poverty, unemployment, and economic dependency. A report of the FATA Civil Secretariat highlights that, "With development activity geared towards

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<sup>141</sup> "FATA Sustainable Development Plan 2007–2015," 19.

the interests of elite, it is no surprise that FATA remains one of the most poorly developed areas in the country.”<sup>142</sup>

Development grants for FATA have been worth far less than for other areas of Pakistan. According to the National Finance Commission’s (NFC) financial distribution mechanism, FATA has not been given its due per capita share. From 2010 to 2015, on average FATA received less than half of the per capita development share in comparison to other provinces of Pakistan.<sup>143</sup> The NFC award is not applicable to FATA; Pakistan’s federal government allocates a fixed financial amount for FATA, which is always a lower per capita share compared to KPK and other provinces. In each fiscal year, the federal government allocates funds for FATA as a top-down policy that promotes the establishment’s patronage and alienates local stakeholders—especially the local populace—to identify, plan, and execute projects to address their socio-economic plight.

Amid the lack of employment opportunities and growth of security concerns in FATA, the educated and skilled youth endeavors to find jobs abroad or in other cities of Pakistan and prefer to live with better social services. These phenomena result in brain drain, and FATA’s population is deprived of the services of doctors, engineers, teachers, and other professional experts.

In the past decade, ongoing military operations, besides negatively affecting agriculture and economy, have resulted in destruction of education and health infrastructure in FATA regions. A large number of schools have been destroyed, and the education process for local tribal youth has almost ceased, further hampered socio-economic progress in FATA.

Amid lack of employment opportunities, a significant number of FATA’s population is involved in illicit trade to earn their livelihoods. These activities include cross-border smuggling of contraband, such as firearms, electronics, and drugs from Afghanistan, and kidnapping for ransom. The Afghanistan-Pakistan Transit Trade Agreement, *Talibanization* on both sides of Durand Line, corrupt administration, and the

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<sup>142</sup> “FATA Sustainable Development Plan 2007–2015,” 19.

<sup>143</sup> “Report of the Committee on FATA Reforms 2016,” 21.

absence of an effective border control mechanism facilitate these illegal businesses. According to Pakistan's official estimates, through illegal business from unfrequented border routes, such businesses evade taxes worth US\$50–60 million each month.<sup>144</sup> The United Nations estimates of 2009 indicate that the illicit drug trade business was worth US\$68 billion, with more than a 95 percent share belonging to Afghanistan.<sup>145</sup> The huge trade and illegal money create a security dilemma for Afghanistan, but the secure smuggling route also adversely affects security and socio-economic conditions in FATA and the rest of Pakistan.

Since 2014, more than 341,916 families (more than 3.7 million people) from various agencies of FATA have become IDPs because of the military operations.<sup>146</sup> These IDPs lost their crops, businesses, and homes to the combat. The rehabilitation of IDPs requires significant finances and is a major constraint on other development projects. The government of Pakistan, according to the progress of military operations, has planned the return and rehabilitation of these IDPs to their native areas in five phases, spread over two years. For their return, each IDP family is entitled to around US\$350.<sup>147</sup> Table 5 reflects the detailed timeline and expenditures for return and rehabilitation of IDPs.

Table 5. Return and Rehabilitation Plan—FATA IDPs.<sup>148</sup>

| <b>Timeline and Phase</b>          | <b>Transport (\$Millions)</b> | <b>Cash (\$Millions)</b> | <b>Total (\$Millions)</b> |
|------------------------------------|-------------------------------|--------------------------|---------------------------|
| March–August 2015 Phase 1          | 12.93                         | 35.28                    | 48.2                      |
| August–December 2015 Phase 2       | 4.71                          | 11.17                    | 16.5                      |
| January–June 2016 Phase 3          | 2.49                          | 6.23                     | 8.72                      |
| August–December 2016 Phase 4 and 5 | 12.86                         | 32.17                    | 45.03                     |
| <b>Total</b>                       | <b>33.01</b>                  | <b>85.48</b>             | <b>118.49</b>             |

<sup>144</sup> Nasir Iqbal, "Nation Loses Rupees 5 Billion to 6 Billion a Month due to Illegal Trade at Torkham," *Daily Dawn*, September 2, 2015, accessed September 14, 2016, <http://www.dawn.com/news/1204400>.

<sup>145</sup> "The Global Afghan Opium Trade-A Threat Assessment," United Nations Office on Drugs and Crime, July 2011, 3, accessed September 15, 2016, [https://www.unodc.org/documents/data-and-analysis/Studies/Global\\_Afghan\\_Opium\\_Trade\\_2011-web.pdf](https://www.unodc.org/documents/data-and-analysis/Studies/Global_Afghan_Opium_Trade_2011-web.pdf).

<sup>146</sup> "FATA Sustainable Return and Rehabilitation Strategy," 19.

<sup>147</sup> *Ibid.*, 17.

<sup>148</sup> Adapted from "FATA Sustainable Return and Rehabilitation Strategy."

#### **D. ANALYSIS OF ECONOMIC POTENTIAL AND PROSPECTS OF FATA**

FATA's mineral deposits, fertile lands, human resources, and geographical location—gateway to Afghanistan and the Central Asian States—provide significant economic potential for FATA. However, each agency of FATA has a particular economic potential due to the differences in respective resources.

Extraction of mineral resources in FATA is likely to generate significant revenue vital to FATA's economic development. Moreover, the mining will engage FATA's population in economic activity, thereby leading to prosperity and socio-economic uplift. The Department of Geological Survey of Pakistan has identified 19 types of various mineral deposits in FATA. North Waziristan and Mohmmmand agencies possess copper and gold deposits of more than 50 million tons of copper.<sup>149</sup> It is estimated that Khyber and Mohmmmand agencies also house marble and lime deposits.<sup>150</sup> Superior quality coal, chromite, and soap stones have been identified in Bajhur, Orakzai, and Kurram agencies.<sup>151</sup> Due to the volatile security situation in the recent past, despite contracts and agreements with foreign extraction companies, these identified mineral deposits have not been extracted. Moreover, the remaining areas await survey to identify potential deposits.

FATA possesses the potential to expand its agriculture and agro-based industries through exploring its untapped land resource. Only 44 percent of FATA's cultivable land is under cultivation, and amid lack of scientific practices, these traditional agro-farms only produce one crop per year.<sup>152</sup> By expansion of the irrigation network, the remaining 56 percent of the land can be brought under agricultural use. Using agricultural science and modern means of agro-production, farmers can yield 3–4 crops during a year.

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<sup>149</sup> "Minerals in FATA," *Daily Dawn*, March 13, 2006, accessed September 13, 2006, <http://www.dawn.com/news/182779/minerals-in-fata>.

<sup>150</sup> Ibid.

<sup>151</sup> "Mineral Exploration: 7 Billion Tons of Marble Present in FATA," *Express Tribune*, June 14, 2011, accessed September 13, 2006, <http://tribune.com.pk/story/188446/mineral-exploration-7-billion-tons-of-marble-present-in-fata/>.

<sup>152</sup> "FATA Sustainable Development Plan 2007–2015," 5–6.

According to the 1998 Census of Pakistan and current estimates, 40–45 percent of FATA’s population is below the age of 25.<sup>153</sup> This young segment of the population provides a vital workforce; FATA’s youth—with provision of education and technical skills—can be integrated into various economic activities to enhance the productivity of FATA.

FATA’s geographical location—on the crossroads linking landlocked Afghanistan and Central Asian Republics (CARs) with the Indian Ocean, Middle East, and Far East Asia—provides FATA a potential to emerge as a transit-trade hub. In 2014, Pakistan and China concluded an important economic project called the China-Pakistan Economic Corridor (CPEC). The CPEC has been planned to pass through the entire north-south length of Pakistan, as a part of the “One Belt One Road” initiative of China. The CPEC includes 51 projects related to railroad infrastructure, power generation, industrial zones, and port construction at Gwadar.<sup>154</sup> Worth US\$46 billion, the CPEC project is comprised of three routes: eastern, central, and western routes, which lie in areas adjacent to FATA.<sup>155</sup> Through this under-construction railroad network, passing through the entire north-south length of Pakistan, China will be connected with the Indian Ocean at Gwadar port, and many road projects are nearing completion.<sup>156</sup> The project is not only significant for Pakistan but also vital for FATA as its western route passes through KPK’s areas adjacent to FATA; and subsequently, CPEC will extended toward Afghanistan and the CARs through FATA. China has already intensified its efforts to engage Afghanistan and the CARs in CPEC. The westward extension of CPEC and its related projects will carry with it huge development prospects and opportunities for FATA.

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<sup>153</sup> “Population,” The Census of Pakistan-1998, accessed September 15, 2016, [http://www.pbs.gov.pk/sites/default/files/other/pocket\\_book2006/2.pdf](http://www.pbs.gov.pk/sites/default/files/other/pocket_book2006/2.pdf).

<sup>154</sup> “China-Pakistan Economic Corridor,” Ministry of Planning, Development and Reforms, Government of Pakistan, accessed September 10, 2016, <http://cpec.gov.pk/progress-update>.

<sup>155</sup> Ibid.

<sup>156</sup> Jamil Nagri, “First Trade Activity under CPEC Kicks off,” *Daily Dawn*, November 1, 2016, accessed November 3, 2016, <http://www.dawn.com/news/1293574>.

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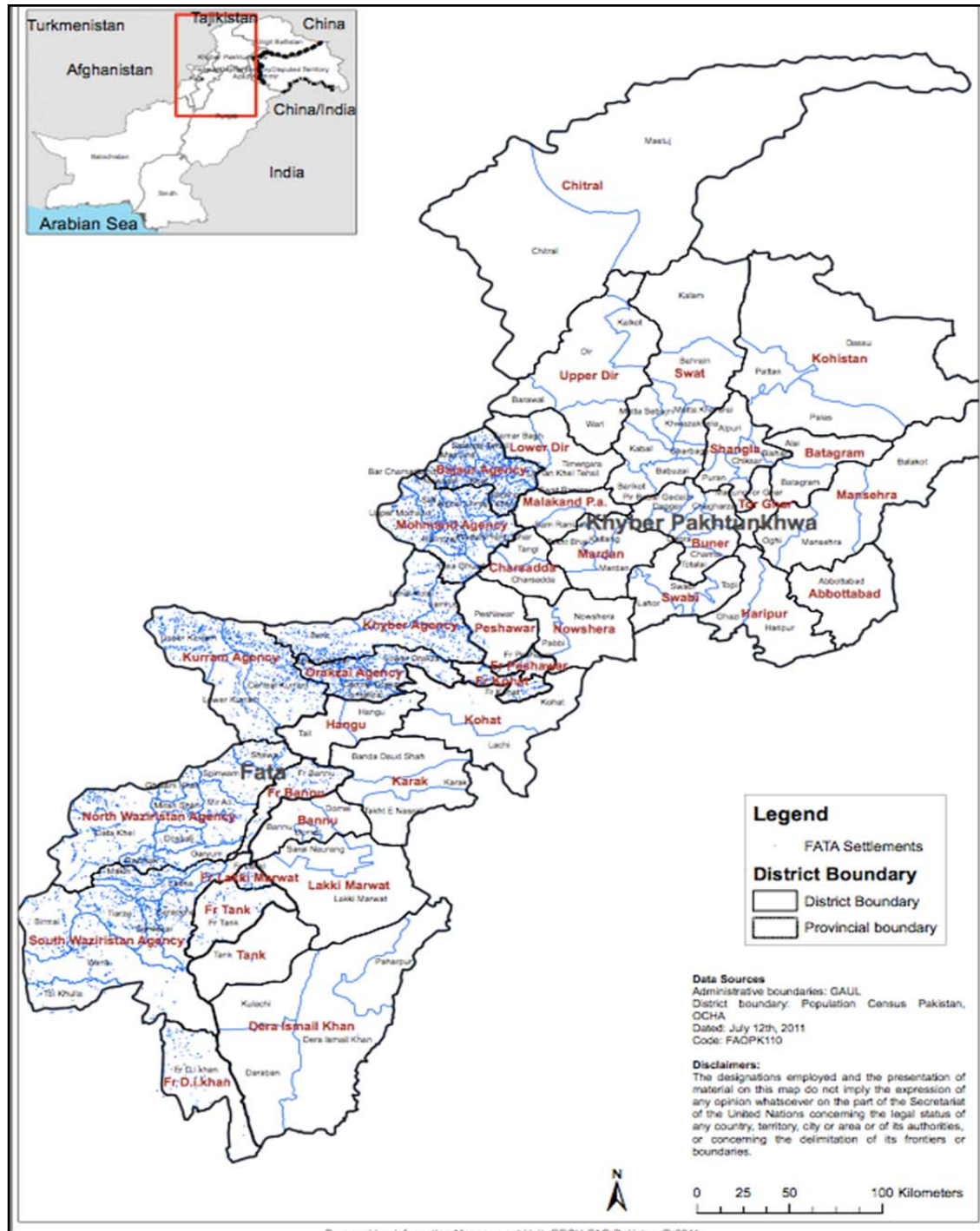
## **V. EXISTING POLITICAL, ADMINISTRATIVE, ECONOMIC, AND JUDICIAL SYSTEMS OF KPK PROVINCE**

KPK province, neighboring FATA, is also inhabited by Pashtuns, who speak a similar language and practice similar social, culture, and religious beliefs as those of FATA tribes. During the British colonial era, certain districts of North Western Frontier Province—renamed KPK in 2009—and agencies of FATA remained under the jurisdiction of FCR. However, under the 1956 constitution the KPK districts were absorbed into the federal mainstream—exactly what did not happen with FATA then or with the 1973 constitution.<sup>157</sup> Figure 7 depicts the districts of the KPK and adjacent agencies of the FATA.

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<sup>157</sup> Ullah, “Governance Reforms in FATA of Pakistan,” 217.

Figure 7. Districts of KPK and Adjacent Agencies of the FATA.<sup>158</sup>



<sup>158</sup>Source: “Base Map of Khyber Pakhtunkhwa and FATA,” Information Management Unit, 2011, accessed November 8, 2016, <http://complex.pakresponse.info/LinkClick.aspx?fileticket=6BFvWGo34ZI%3D&tabid=71&mid=465>.

In contrast to FATA, the KPK province today functions through a modern governance system that incorporates political, administrative, economic, and judicial aspects. As compared to the tribesmen of FATA, the residents of KPK live under better living conditions.<sup>159</sup> Unlike FATA, KPK's constitutional institutions exercise their legal and executive authority through an inclusive and participatory democratic process. The presence of better governing institutions, law enforcement, and socio-economic infrastructure have been vital to the development process in KPK, even as the prevailing instability and lawlessness in FATA has had spillover effects in the adjacent KPK areas.

In the light of the significant cultural and social similarities between FATA and KPK—and the very different situation prevailing in each—this chapter examines the present administrative, political, economic, and judicial systems enforced in KPK province. KPK's governmental structures are identical to the other provinces of Pakistan, all of which are derived from Pakistan's constitutional framework. This chapter also identifies and analyzes the main contributing and limiting factors relevant in adaptation and application of a governance system in FATA identical to KPK's governance system.

#### **A. KPK'S POLITICAL SYSTEM**

Similar to other provinces of Pakistan, the KPK province also possesses a provincial lawmaking assembly, law enforcement institutions, law enforcement mechanism, and local government system. KPK's political institutions comprise the provincial assembly, local government bodies, and representation at both houses of the national parliament. The KPK's provincial assembly consists of 124 members, including the directly elected members, reserved seats for women, and seats reserved for non-Muslim minorities directly elected by the minority population of the province. The Speaker of the provincial assembly runs the business of the house through 37 standing committees. The members of the provincial assembly elect the chief minister, who is head of the provincial government and executes his functions through his cabinet formed by various ministers and advisers on different functions such as home, finance, trade

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<sup>159</sup> "Poverty Profile of Pakistan," Benazir Income Support Program, 2013, 5, accessed November 7, 2016, <http://www.bisp.gov.pk/PIDEReports/poverty.pdf>.

health, education, law, etc. The federal and provincial ministers are assisted by bureaucrats along with their staff, in formulation and execution of administrative policies of the government. Besides the ministries and appointed advisors, specific public sector development programs and foreign-funded programs, and other bilateral and multilateral organizations also assist the government in the development and governance domain.

The budget for governance, development, and other state affairs is generated through direct and indirect tax collection. Financial deficits are met through grants and internal and international loans from international monetary institutions like the International Monetary Fund and Asian Development Bank. The collected revenue and loans are distributed by the federal government among the federation and provinces in accordance with a mutually agreed upon mechanism called the National Finance Commission.<sup>160</sup>

## **B. KPK'S ADMINISTRATIVE AND LOCAL GOVERNMENT SYSTEM**

Identical to the other provinces of Pakistan, the chief minister of KPK acts as chief executive of the KPK's province and is elected by the members of the provincial assembly; whereas, the governor is appointed by the federal government and acts on advice from the chief minister. For the ease of administrative function, the KPK province has been divided into various administrative divisions. Each division consists of multiple districts; in total, there are 7 divisions and 25 districts in KPK.

The districts are governed by district coordination officers with the assistance of the heads of various departments. The officers of these departments are recruited through Central Superior Services, Provincial Civil Service, and at times consultants and project managers, and staff is recruited directly by the province. The KPK's administration consists of 31 departments besides the Local Government Elections and Rural Development Department.<sup>161</sup>

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<sup>160</sup> Detlef Barth, *The Governance Landscape of Khyber Pakhtunkhwa* (Peshawar: Support to Good Governance in Pakistan Program, 2011), 5.

<sup>161</sup> Barth, *The Governance Landscape of Khyber Pakhtunkhwa*, 7. See also Figure 7.

The chief secretary of the KPK province regulates and supervises the divisional commissioners in implementation and execution of governance policies of the provincial government within the legal framework. The divisional commissioners perform supervisory and coordinating functions for various departments at the divisional level besides administering district management of all aspects including law and order, revenue, and monitoring and evaluation of provincial development plans through the district coordination officers of their respective districts.<sup>162</sup> The commissioners can approve development projects up to US\$400,000 in their respective divisions.

At the district level, the district coordination officers act as head of district administration and supervise the functions of all management and development departments within the districts in consultation with district heads of their respective departments. These departments normally include Law, Local Government, Planning and Development, Health, Education, Food, Forest, Technical Education, Finance, Social Welfare, Tourism, Agriculture, Information, Transport, Excise and Taxation, Industry, Labor, Irrigation, Livestock, Housing, and Population Welfare.<sup>163</sup> However, the police department is controlled directly by the provincial inspector general of police through the regional police officer at the divisional level and district police officers.

The local governance system is of paramount importance for the provision of health, education, and other basic amenities to the populace.<sup>164</sup> The 1973 constitution of Pakistan requires provincial governments to establish local governing bodies through direct elections.<sup>165</sup>

In 2013, the present government of Pakistan, *Tahreek-e-Insaf* (PTI), passed the Local Government Act of 2013.<sup>166</sup> Under this act, elections of government bodies were held in 2014, and more than 45,000 members at the district, sub-division, and town levels were elected to undertake local governance throughout the province of KPK. The Local

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<sup>162</sup> Barth, *The Governance Landscape of Khyber Pakhtunkhwa*, 7.

<sup>163</sup> Ibid., 3–5.

<sup>164</sup> Aziz Khalid, “Appraisal of Local Governance in KPK,” *Criterion Quarterly*, 11 (2016): 171.

<sup>165</sup> “The Constitution of the Islamic Republic of Pakistan.”

<sup>166</sup> Khalid, “Appraisal of Local Governance in KPK,” 165.

Bodies Act of 2013 empowers the local representatives to plan and execute projects, thereby transforming powers to the grassroots level in line with the constitution.

KPK's Local Government Act of 2013 outlines the formulation of its local government at various tiers: District Councils, City Municipal Administration, Tehsil Municipal Administration, Neighborhood Councils, and Village Councils. The Act also lays down the powers and jurisdiction of various entities of the local governance system that accords efficiency and prevents ambiguity in discharging of their respective functions. The Local Government Act of 2013 highlights the role of governance bodies, which mainly include the policy of formulation and provision of services, formulation of budget and imposition of taxes, development plans and related regulations, and hiring, evaluation, and firing of local governance staff.<sup>167</sup>

### **C. KPK'S ECONOMIC MANAGEMENT SYSTEM**

The economic management system of KPK, like all other provinces within Pakistan, manages the socio-economic progress of the province along modern lines. However, due to its geographical proximity to war-torn FATA and Afghanistan, KPK province has faced significant economic and social effects from the war as compared to the rest of Pakistan. The KPK's residents plan and execute these policies through their own local government. *Pakistan Tehrik-e-Insaf's* present government of KPK has implemented all-encompassing strategies to counter militancy in KPK's adjacent areas of FATA. In addition to other indigenous initiatives, the government of KPK, in consultation with the World Bank, has evolved a strategy to enhance economic, employment, health, education, governance, and other socio-economic aspects of the province.<sup>168</sup> The major departments of KPK's government dealing with economic developments include finance, revenue, excise and taxation, industries, labor, agriculture, irrigation, mines and minerals, energy and power, planning and development, science and

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<sup>167</sup> "Khyber Pakhtunkhwa Local Government Act, 2013," Government of Khyber Pakhtunkhwa, 2013, accessed October 3, 2016, <http://lgkp.gov.pk/wp-content/uploads/2013/12/Local-Government-Act-2013.pdf>.

<sup>168</sup> "Country Partnership Strategy," World Bank, December 2013, 2, accessed October 28, 2016, <http://documents.worldbank.org/curated/en/407031468145471407/pdf/838280REV00PUB0s0KP0Summary0English.pdf>.

technology, information technology, education, health, housing, and food. These departments are headed by provincial ministers who are assisted by their respective secretaries and secretariat staff along with sub-offices at the divisional and districts level.

Pakistan’s central government accumulates finances in the Federal Divisible Pool and subsequently divides these among the federation and provinces through a distribution mechanism called The National Finance Commission Award (NFC Award). The NFC Award allocates funds among the province based on a per capita share corresponding to the provincial population. Based on the NFC Award, KPK’s government received U.S. \$2.7 billion as share for year 2015–2016.<sup>169</sup> Table 6 indicates the share of each province for financial year 2014–2015.

Table 6. NFC Award—Provincial Share for Financial Year 2014–2015.<sup>170</sup>

| <b>Distribution of Pakistan’s<br/>Divisible Pool Tax</b> | <b>Punjab</b> | <b>Sindh</b> | <b>KPK</b> | <b>Baluchistan</b> | <b>Total</b> |
|--|---------------|--------------|------------|--------------------|--------------|
|  | 51.74 %       | 24.55 %      | 14.62%     | 9.09 %             | 100 %        |

The succeeding governments of KPK have introduced policies to improve the socio-economic status in the province. The incumbent PTI government in KPK has introduced an Integrated Development Strategy 2014–2018, and Pervaiz Khattak, the Chief Minister of KPK, states that, “Despite the increasingly uneven development that characterizes KPK, we dream of a province where all people enjoy equal opportunities, wealth and rights. And we are working together to transform that dream into reality.”<sup>171</sup>

The main pillars of the Integrated Development Strategy 2014–2018 include improving productivity and value addition, provision of services to citizens, governance

<sup>169</sup> “Budget Strategy Paper, 2015–16,” National Finance Commission Secretariat, accessed August 31, 2016, <http://www.financекpp.gov.pk/FD/attachments/article/78/BSP-2015-16.pdf>.

<sup>170</sup> Adapted from “2nd Biannual Monitoring on the Implementation on NFC Award,” Ministry of Finance, Government of Pakistan, 2015, 5, accessed October 27, 2016, [http://www.finance.gov.pk/nfc/nfc\\_jan\\_jun\\_2015.pdf](http://www.finance.gov.pk/nfc/nfc_jan_jun_2015.pdf).

<sup>171</sup> “Integrated Development Strategy, 2014–2018,” Government of Khyber Pakhtunkhwa, 2014, 4, accessed August 31, 2016, <http://www.cdldta.pk/downloads/publications/Khyber%20Pakhtunkhwa%20Integrated%20Development%20Strategy%202014-2018.pdf>.

transparency and accountability, expanding tax collection and raising overseas remittances, and promotion of regional trade and structural connectivity.<sup>172</sup> The major areas of socio-economic reforms include poverty reduction, energy production including alternative energy resources, agriculture sector, mining and minerals, human resources development, industrial management, improvement of infrastructure and transport, and education and health service delivery.<sup>173</sup> If these policies are implemented and pursued in the true letter and spirit, they are likely to contribute significantly to improving economic conditions in KPK.

#### **D. KPK'S JUDICIAL SYSTEM**

KPK's judicial structure reflects all provincial judicial systems in Pakistan. Pakistan's current judicial system evolved, amid intermittent changes, according to the constitutions of 1956, 1962, and 1973. Pakistan inherited its judicial system from the British Colonial Administration that is still enforced in all four provinces, including KPK, although with intermittent amendments from federal and provincial governments.

Similar to other provinces in Pakistan, KPK's current judicial system has primarily two tiers: superior judiciary and subordinate courts. The superior judiciary is composed of the Supreme Court of Pakistan and the Peshawar High Court—provincial court. The subordinate courts include civil courts and criminal courts.<sup>174</sup> The Supreme Court is the apex of Pakistan's judicial system and besides functioning as the original court, also acts as the appellate and advisory bodies and highest appellate court. The Supreme Court has jurisdiction throughout the country, excluding FATA. Peshawar High Court is the supreme judicial body of KPK's province. All 25 administrative districts of the KPK province have their own civil and criminal courts. Figure 8 depicts the judicial system of KPK.

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<sup>172</sup> “Integrated Development Strategy, 2014–2018,” 12–18.

<sup>173</sup> Ibid, 23–69.

<sup>174</sup> Faqir Hussian, *The Judicial System of Pakistan* (Islamabad: Federal Judicial Academy, 2015) 6–13.



Figure 8. Judicial System of KPK.<sup>175</sup>

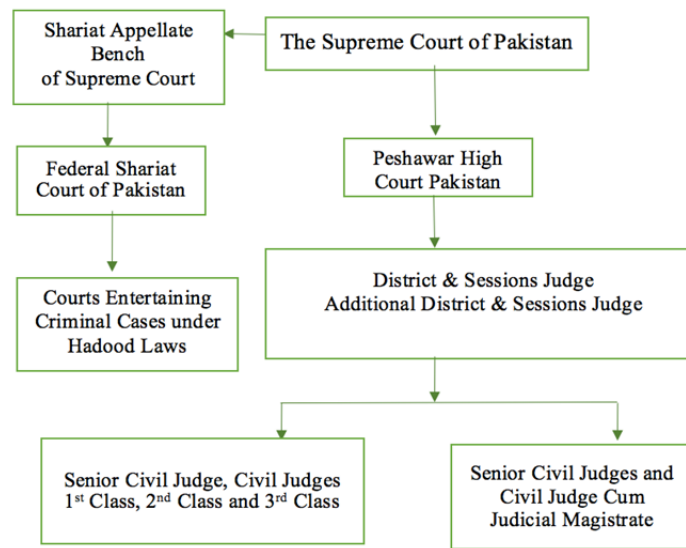


Table 7 depicts a number of various courts and the strength of law officers and lawyers in KPK.

Table 7. Judicial Statistics—KPK.<sup>176</sup>

| Category  | Number | Remarks                     |
|---|--------|-----------------------------|
| Judges of Peshawar High Court                     | *20    | * Including Chief Justice   |
| District and Session Judges                       | 25     |                             |
| Additional District and Session Judges            | 103    |                             |
| Senior Civil Judges and Civil Judges/ Magistrates | 322    |                             |
| Advocate General / Additional Advocate General    | *13    | *Including Advocate General |
| Deputy / Assistant Advocate General               | 17     |                             |
| Prosecutor General                                | 1      |                             |
| Additional/Deputy /Assistant Prosecutor General   | 207    |                             |
| Law officers and District Attorney                | 67     |                             |
| Deputy / Assistant Public Prosecutor              | 180    |                             |
| Advocate High Peshawar Court                      | 6498   |                             |
| Advocate Subordinate Courts                       | 8692   |                             |

<sup>175</sup> Adapted from Faqir Hussian, *The Judicial System of Pakistan* (Islamabad: Federal Judicial Academy, 2015).

<sup>176</sup> Adapted from Ibid.

## **E. KPK AND FATA IN COMPARISON**

The extension of the constitutional framework to KPK in 1956 has resulted in the creation of modern democratic political, governing, judicial, and economic institutions in KPK, whereas, FATA is deprived of any such institutions. Despite structural and management limitations, KPK has detailed working governance mechanisms to supervise and regulate administrative functions essential for any evolving society. By contrast, the FATA does not have any working governance mechanism.

The constitution of Pakistan has enabled the residents of KPK to contribute in formulation of governance and economic policies according to their own requirements and priorities. Similarly, for stability and development in FATA, the establishment of a comprehensive administrative mechanism, through constitutional and legal amendments, is essential for any meaningful endeavor to integrate FATA into the Pakistani national system.

## **VI. WAY FORWARD FOR FATA'S INTEGRATION INTO PAKISTAN'S NATIONAL SYSTEM**

The state of Pakistan has sustained significant human and financial losses to evict Taliban from FATA. However, the persistent lawlessness and absence of a functional governance system in FATA may result in the re-emergence of Taliban. As a result of such apprehensions, Pakistan's administration is in the process of evaluating various models of administrative, political, economic, and judicial reforms to integrate FATA under its central control. However, as a prelude to a governance reform package, the administrative and political status of FATA needs to be ascertained under a legal framework with due approval of FATA's populace.

This final chapter evaluates available options for FATA's integration into Pakistan's mainstream. This chapter also suggests multidimensional reforms for political, administrative, judicial, and economic mechanisms for the empowerment of FATA's tribesmen.

### **A. OPTIONS FOR FATA'S INTEGRATION INTO PAKISTAN—ANALYSIS**

After comprehensive military operations and extrication of terrorists from FATA, the demand for meaningful reforms in FATA has gained momentum; meanwhile, the difference of opinion on modalities for imposition of reforms remains. Pakistan constituted the FATA Reforms Committee in 2015 to formulate various options for the integration of FATA into Pakistan's national system.<sup>177</sup>

Before enforcing the required reform package, the committee has presented four options for revising the constitutional status of FATA. The first option suggests continuity of status quo by maintaining the semi-independent status of FATA, while only enforcing judicial and administrative reforms to improve FATA's situation. According to the second option, the federal government would administer FATA through an elected governing body—the FATA Counsel. In other options, through constitutional

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<sup>177</sup> Abdul Manan, "Government forms High-Powered Panel on FATA Reforms," *Express Tribune*, November 9, 2015, accessed August 27, 2016, <http://tribune.com.pk/story/987775/notification-issued-govt-forms-high-powered-panel-on-fata-reforms/>.

amendments, FATA would be converted into a separate administrative province or merged with KPK province.<sup>178</sup> Apparently, the reform committee's recommendations advocate for the merger of FATA with KPK; however, any decision on FATA's future must entail detailed evaluation from Pakistan's parliament and cabinet beside consensus from the FATA population.

Various stakeholders, including FATA's tribal elite and youth, and the political and administrative elite of both KPK and Pakistan, have conflicting political and socio-economic interests relating to the proposed constitutional and administrative status of FATA. Amid these conflicts of interests, the supporters of these various options offer contradictory arguments on proposed FATA's model. Amid continuous militancy and lack of economic opportunities in FATA, a significant number of people from FATA have moved overseas for employment.<sup>179</sup> As a result, this segment of FATA's society has attained economic independence and prosperity. The families and dependents of this overseas cadre are now demanding measures to change the existing nomadic order of the FATA. Amid this new socio-economic awareness in FATA, the traditional tribal elite—the *maliks*—have also adapted to the emerging environment of change; in a bid to remain relevant, *maliks*, along with a majority of FATA's residents, demand the granting of an independent provincial status to FATA.<sup>180</sup>

The potential merger of FATA with KPK has implications for national policy outcomes because a larger Pashtun-province comprising KPK and FATA will nurture Pashtun nationalism. The option to merge FATA in KPK province has popular approval among the political stakeholders of KPK. With the merger of FATA into KPK, the KPK will emerge as a bigger province, more able to influence national politics and policy outcome; on the other hand, it might also contribute to Pashtun nationalism, which may lead to the demand of a separate state for Pushto speaking population, contrary to

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<sup>178</sup> Ismail Khan, "Reforms Proposed for Merger of FATA into KP," *Daily Dawn*, June 13, 2016, accessed July 13, 2016, <http://www.dawn.com/news/1264492>.

<sup>179</sup> "Trouble on the Pakistan-Afghanistan Border," United State Institute of Peace, December 2006, accessed August 27, 2016, <http://www.usip.org/publications/troubles-the-pakistan-afghanistan-border>.

<sup>180</sup> "Public Opinion in Pakistan's Tribal Areas," Council on Foreign Relations, September 2010, accessed August 27, 2016, <http://www.cfr.org/pakistan/public-opinion-pakistans-tribal-regions/p23207>

Pakistan's state interests. The major political stakeholders of KPK, Pakistan *Tehreek-e-Insaf* (PTI), *Awami National Party* (ANP), and *Qaumi Watan Party* (QWP), and the religious parties—*Jamaat-e-Islami* (JI) and *Jamiat Ulema-e-Islam* (JUI)—support the proposal of FATA's integration into KPK.<sup>181</sup> The alliance of FATA's political parties' has threatened to observe August 14, Pakistan's Independence Day, as a day of mourning, if the government of the Pakistan fails to merge FATA with the KPK province.<sup>182</sup> The advocates of this merger refer to traditions linking FATA and KPK, as well as ethnic and linguistic, and social similarities between KPK and FATA.

Contrary to the interests of the KPK's political elite, the current Punjab-dominant federal government and central bureaucracy to retain its dominance does not welcome the proposal of FATA's merger into KPK. The Pakistan Muslim League—presently in power at center, Punjab and Baluchistan—supports the management of FATA through a central—governing council, similar to the existing arrangements in Azad Kashmir and Gilgit-Baltistan.<sup>183</sup> However, the KPK's political parties support the merger of FATA in province of KPK.<sup>184</sup> The political and administrative elite at center suspects that granting of provincial status to FATA may trigger the ongoing ethnic sub-nationalism already demanding provincial status within Punjab and Sindh provinces; Punjab province dominates the central politics and outcome of elections due to its huge population base. Additionally, central political elite fears that the merger of FATA with KPK, will enable the bigger KPK province to challenge the domination of Punjab in policy outcome at the federal level.<sup>185</sup>

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<sup>181</sup> "Sherpao Backs Merger of FATA into KP," *Daily Dawn*, September 14, 2015, accessed August 27, 2016, <http://www.dawn.com/news/1206864>.

<sup>182</sup> "FATA Parties Threaten to Observe August 14 as Black Day," *Daily Dawn*, July 15, 2016, accessed July 27, 2016, <http://www.dawn.com/news/1270945/fata-parties-threaten-to-observe-aug-14-as-black-day>.

<sup>183</sup> Zia Ur Rehman, "Governing FATA: The Big Debate," *Daily Dawn*, July 6, 2014, accessed July 30, 2016, <http://www.dawn.com/news/1116760>.

<sup>184</sup> Sehrish Wasif, "All Parties' Conference: Mainstream Parties Back Fata's Merger with KP," *Express Tribune*, November 3, 2015, accessed June 12, 2016, <http://tribune.com.pk/story/984115/all-parties-conference-mainstream-parties-back-fatas-merger-with-k-p/>.

<sup>185</sup> Punjab is the biggest province of Pakistan with more than 50 percent of the population and 183 National Assembly seats in a house of 342 total seats.

The creation of a new FATA province will warrant establishment of an altogether new governance mechanism: creation of legislative, administrative, and judicial departments. The creation of a new province comprising FATA and establishment of a new governance mechanism will require vital financial resources. Current economic indicators suggest that the war-torn economy of Pakistan may not sustain its cost in the near future.

## **B. RECOMMENDATIONS FOR FATA’S CONSTITUTIONAL STATUS**

Before enforcing administrative, political, judicial, and economic reforms, Pakistan’s government must abolish FCR, and rescind FATA’s special status to bring it to equal standing with the rest of the country. Pakistan needs to adopt constitutional and legal amendments either to merge FATA with KPK province or create an additional province comprising FATA. Subsequently, Pakistan should create various departments and institutions—identical to those of KPK province as discussed in Chapter V—to undertake their essential governance functions. These institutions, through public participation, need to discharge their functions to ensure implementation of law, transparency, and accountability. The FCR must be abolished forthwith, and the office of the political agents, FATA Secretariat, and Ministry of SAFRON be done away with. However, abruptly annulling the FCR may result in administrative chaos and breakdown of management apparatus.<sup>186</sup> Therefore, the government needs to devise a comprehensive phased plan to install a new governance mechanism.

The population of FATA must approve a legal framework for the administrative and political status of FATA, before implementation of any governance system. During the last four decades, the population of FATA has been subject to intense violence affecting almost every aspect of tribal society. The people of FATA realize that a comprehensive reform package is mandatory to bring the desired change in FATA; the survey conducted by Community Appraisal and Motivation Program (CAMP) indicates that a majority of the FATA population supports transformation of the existing management, whereas only 11 percent of people advocate continuation of the status

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<sup>186</sup> “Misgovernance–Radicalization Nexus in Pakistan,” 124.

quo.<sup>187</sup> Pakistan's government must conduct a referendum to ascertain future administrative and constitutional status of FATA in accordance with the recommendation and choice of the local tribesmen. The conduct of the referendum in FATA will inculcate a sense of participation amongst the tribesmen while dissolving the imperialistic legacy of political non-participation. Amid finance and time constraints, the integration of FATA into KPK appears to be the workable and logical option; however, no outside decision shall be enforced on independence-conscious tribesmen. Any decision against the will of local people is likely to be resisted by the tribesmen and may prove counterproductive.

The FATA's merger with KPK is supported by cultural, social, and linguistic similarities; the suitability of KPK's administrative mechanism; and the cost-effectiveness of merging FATA with KPK province than that of creating a new provincial structure—by using existing governance structure. Pakistan must build public opinion to draw public support for this merger. Due to the geographical layout, FATA remains dependent on KPK for economic, health, education, and logistics.<sup>188</sup> Moreover, all FATA's agencies are linked with KPK through the road network. For this reason, as well, the integration of FATA with KPK appears more logical and practical than creating an altogether new province or retaining the semi-autonomous status of FATA. Therefore, it is recommended that FATA agencies be converted into administrative districts as part of KPK. These newly formed districts should be governed in line with the existing administrative model employed in KPK under a deputy commissioner as head of local administration. Besides the deputy commissioner's office, revenue, health, education, social welfare, police, labor, industries, and other administrative departments should be established forthwith.

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<sup>187</sup> "CAMP's Survey Report," *Business Reorder*, March 1, 2012, accessed on October 18, 2016, <http://www.brecorder.com/general-news/172:pakistan/1160480:camps-survey-report-reveals-two-thirds-of-fata-people-believe-pakistan-moving-in-wrong-direction/?date=2012-03-01>.

<sup>188</sup> Ibid.

### **C. RECOMMENDATIONS FOR POLITICAL, ADMINISTRATIVE, AND JUDICIAL REFORMS IN FATA**

In developed and developing societies, a democratic local government system is essential to translate the people's will into policies. Pakistan's federal government must implement the Local Government Act of 2002 and hold elections to form local governance bodies at the agency, divisional, and sub-divisional level, while providing requisite financial and planning autonomy to these bodies.

Despite adopting FATA's Local Government Act of 2002, FATA's administration, on one pretext or another, did not hold elections for the formation of local governance bodies. French theorist David Galula opines that during counterinsurgency campaigns the military operations help eradicate the militants' armed threat, while local leaders elected through conduct of elections help win local support and deny the re-emergence of militants.<sup>189</sup> As a result of recent military operations, the federal government has restored its territorial writ over FATA. The current environment in FATA necessitates that the tribal administration must hold elections to establish local administrative governance bodies at various tiers with requisite financial and legal autonomy. Such arrangements will help the transition of power to the local population and assist their integration into the national system of Pakistan.

In order to enhance the capacity of the existing Khassadar force, FATA's administration should merge it with KPK's police department. This merger will help to build the capacity of the Khassadar force to contest criminal elements in FATA. The Taliban hijacked the tribal society through the use of illegitimate force and money in the absence of any security apparatus. Effective law enforcement agencies are vital for implementation of governance policies and establishment of the writ of an administrative mechanism. The existing Khassadar Force should be merged with KPK's police force, and shall be trained and equipped to meet modern policing requirements especially of radicalized FATA. For capacity building of law enforcement agencies the educated tribal

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<sup>189</sup> David Galula, *Counter-Insurgency Warfare Theory and Practice* (London: Praeger Security International, 1964), 92.



youth should be enrolled,<sup>190</sup> and their pay packages should be raised to equal those of the KPK police.

Through the application of the requisite constitutional clauses, Pakistan must restore the human rights of FATA's population and repeal the enforced Action in Aid to Civil Power regulations. In 2011, the government enforced the Action in Aid to Civil Power regulation to empower the military to conduct counterinsurgency operations inside FATA. Substantial clauses of the Action in Aid to Civil Power regulations affect basic human rights and give absolute powers to the military.<sup>191</sup> Action in Aid to Civil Power regulations need to be repealed forthwith as the Pakistan Army recently claimed victory in FATA while eradicating the Taliban menace. Annulling this controversial regulation will help restore human rights under the United Nations Universal Declaration on Human Rights and International Covenant on Civil and Political Rights.<sup>192</sup>

Pakistan's government must assist the private sector in the creation of free and independent media in FATA to provide FATA's population with access to information. Pakistan's government should encourage FATA's liberal scholars and moderate clergy to contribute in de-radicalization using various components of media. Opinion building amongst the tribesmen to support any reforms package is a prelude to the integration process of FATA. To eradicate resistance to change and inculcate acceptance of modernity in FATA populace, a well-orchestrated awareness campaign should be conceived and executed involving educated and moderate religious scholars from throughout KPK.

The 18th Amendment to Pakistan's constitution accords information access rights to the people of Pakistan.<sup>193</sup> The Print and Electric Media Regulatory Authority (PEMRA) monitors and regulates the development and conduct of the media.<sup>194</sup> There is

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<sup>190</sup> "Misgovernance–Radicalization Nexus in Pakistan," 130.

<sup>191</sup> Ibid, 126.

<sup>192</sup> Ibid.

<sup>193</sup> "18th Amendment to the Constitution of the Pakistan-1973," Government of Pakistan, 2010, accessed November 3, 2016, [http://www.na.gov.pk/uploads/documents/1302138356\\_934.pdf](http://www.na.gov.pk/uploads/documents/1302138356_934.pdf).

<sup>194</sup> Khan and Khan, Mainstreaming FATA through Legal and Political Reforms, 42.

a need to extend the jurisdiction of PEMRA in FATA and to establish a local media network that is composed of digital, electronic, and print media in FATA in the Pushto language and in line with tribal culture. Media must be monitored and harnessed to promote awareness and create acceptance for modern social patterns.

The existing FCR-based system of political non-participation in FATA must be repealed. To integrate FATA into its parliamentary system, Pakistan's federal government must amend the constitution to extend parliament's legislative jurisdiction to FATA. To inculcate modern democratic norms, the Political Parties Act should be enforced in its true letter and spirit. Pakistan's central government needs to facilitate and encourage all political parties of Pakistan to generate political discourse in FATA.

Through constitutional amendments, the Pakistan government must allocate seats for FATA in KPK's provincial assembly to enable local representatives to legislate for the creation of local government in FATA. The effects of a persistent political process in KPK have been encouraging; the residents of KPK have been actively involved in political discourse. In KPK, the 2008 elections brought into power the Secular *Awami National Party* while defeating the religion-centric *Muthaidda Majlus-e-Amal*,<sup>195</sup> and another liberal party—*Pakistan Tehrik-e-Insaf*—won the 2013 elections. The competition of religious and secular parties to serve the populace will help in gradual rehabilitation of radicalized FATA. The introduction of public participation through democratic means, besides integrating FATA in the national and provincial political system, will not only empower locals, but will inculcate the essence of democratic norms at the grassroots level.

FATA's current judicial system enables the administrative and tribal elite of FATA to protect its vested interests at the cost of the human rights of tribesmen. Pakistan requires a comprehensive legal reform package to ensure protection of human rights through implantation of laws in FATA. The federal government of Pakistan must to introduce constitutional amendments to abolish Article 247 of the constitution and extend the jurisdiction of lower and apex courts to all of FATA as applicable in the rest of

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<sup>195</sup> White, *Pakistan's Islamic Frontier*, 126.

Pakistan.<sup>196</sup> Clauses of the 1973 constitution of Pakistan need to be amended to attain constitutional authority in this regard. The State of Pakistan should also implement civil and criminal laws in FATA identical to those enforced in KPK. The government needs to allow FATA's representation in the provincial assembly of KPK, and judicial legislation for FATA must be carried out through the provincial assembly according to the people's will.

#### **D. RECOMMENDATIONS FOR ECONOMIC DEVELOPMENT REFORMS IN FATA**

Unprecedented financial resources are vital for the creation of new governance, educational, health, industrial, energy, and communication infrastructure within FATA. Pakistan's ruling elite, due to economic constraints and political and security priorities, has ignored FATA for more than seven decades. To sustain the recent success of military operations in FATA, the decline of socio-economic conditions needs to be addressed. Pakistan must adopt comprehensive measures to bring FATA on equal standing with the rest of Pakistan. Limited by meager economic resources, Pakistan must set aside all its development work in the rest of Pakistan—except projects related to CPEC—for two years and divert all funds for the integration and development of FATA. Socio-economic development of FATA will have a positive impact on eradication of terrorism, thereby restoring the image of Pakistan throughout the world.

The local community government system, comprising elected bodies, is instrumental to determine educational, health, and other development requirements and priorities of their respective areas. Similarly, FATA's tribesmen need to play a participatory role in addressing the socio-economic decline. KPK's enforced local government should be extended to FATA. Elected bodies at various tiers should be given resources and autonomy to evaluate, plan, and supervise all socio-economic development projects, including education, health, and basic infrastructure projects.

For human resources development, provision of formal and technical education to FATA's youth, including women, is vital to achieve sustained economic growth and to

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<sup>196</sup> Khan and Khan, "Mainstreaming FATA through Legal and Political Reforms," 40.

enhance employment opportunities. Besides hiring essential teaching and support staff for schools, new schools should be established within a manageable commuting radius for students. Attainment of a high school-level education should be made mandatory and free of cost. To reduce the financial pressure on poor tribesmen, the state should provide free books and meals to students. The *madrassas*—religious schools—should be registered and brought under the education department, and a standard syllabus should be introduced in all schools throughout FATA. Each town should establish college and vocational institutions both for male and female students. Moreover, each agency headquarters should house a university. Local government bodies should have financial capacity and authority to revitalize existing medical facilities and hospitals, hire medical staff, and procure quality medicines through a transparent procedure.

FATA's agriculture sector, despite employing a major percentage of FATA's population, has major shortcomings: lack of irrigation facilities, collective land ownership, and low yield are major impediments to agricultural production. In this regard, communal land ownership should be abolished, and after segregation of commercial, residential, and agriculture lands, these lands should be re-distributed among each household in FATA. Due to the absence of an irrigation network, landowners are unable to cultivate 56 percent of the fertile land. To address this shortfall, the administration should ensure construction of irrigation channels, provision of electricity, and installation of tube wells at subsidized rates. To introduce modern agricultural techniques to farmers at the community level, local government should arrange seminars, workshops, and lectures. FATA's farmers should be encouraged to refrain from poppy cultivation<sup>197</sup> through motivation, substitute incentives, and strict law enforcement. With provision of requisite education, the local administration should encourage FATA's youth to establish agro-based businesses, including forestry, and poultry and livestock rearing. The existing banking system of KPK should be extended to FATA, and FATA's farmers should be entitled to draw loans on soft terms to acquire agriculture appliances, fertilizers, pesticides, and seeds.

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<sup>197</sup> "Banned Crop: Centre Seeks Explanation on Poppy Cultivation," *Express Tribune*, April 9, 2015, accessed November 7, 2016, <http://tribune.com.pk/story/866609/banned-crop-centre-seeks-explanation-on-poppy-cultivation/>.

FATA's untapped mineral deposits have the potential to generate much needed finances for prosperity and development of FATA. In consultation with local stakeholders, government should evolve a comprehensive mechanism for extraction of these resources. Besides providing a royalty to FATA, the federation must allocate the rest of all mineral revenue for infrastructure development projects. However, for progress in the industry, agriculture, and mining sectors, a comprehensive communication infrastructure is essential. The provincial government should formulate a communication masterplan including roads, rail, and air, and these projects should proceed according to priority, following a strict timeline. Sustained electric supply is essential for economic and industrial growth; however, Pakistan is already subject to acute power shortages. The rugged and mountainous terrain of FATA poses a particular challenge to establish power transmission infrastructure. Therefore, small and medium hydroelectric projects in each agency should be constructed to meet the energy requirements.

No society can develop and face modern governance challenges without strong revenue generation to meet administrative and development expenditures, and FATA is no exception. FATA's economy is undocumented, with no tax collection mechanism in place. The government should extend KPK's revenue generation and tax collection mechanism to FATA; trade, business, and other economic activities should be registered, documented, and brought into the taxation network. However, in order to promote economic activities in FATA, the newly established agriculture and industrial units should be granted tax holidays for a certain period. Government should enforce strict measures to control illegal businesses like drug handling, weapons manufacturing, and smuggling of contraband items. A comprehensive border control mechanism is mandatory to effectively monitor illegal trade and to collect excise duties; therefore, modern means of surveillance, communication, and transportation should be provided to the border management force to control crossing through the porous Durand Line.

Traditionally, the absence of an accountability mechanism and the nexus of political agents and *maliks* in FATA has led to corruption, political exploitation, and nepotism; it has also proved detrimental to the socio-economic development of FATA. In order to prevent financial malpractice, all development projects need to be monitored and

supervised to ensure judicious utilization of funds for bona fide purposes. Government should establish independent monitoring bodies comprising elected members of the respective community and government officials to address these audit and transparency issues.

Furthermore, extension of CPEC toward Afghanistan and CARs depends on stability in Afghanistan and FATA. The CPEC project has already initiated significant economic activities in KPK's areas adjacent to FATA, and CPEC's subsequent extension toward Afghanistan and CARs will generate huge economic opportunities for FATA, and certainly assist in poverty reduction. The economic development prospects of CPEC will likely induce Afghanistan to pursue better relations with Pakistan.<sup>198</sup> Therefore, the political and security elite of Pakistan-KPK and FATA, both at the national and provincial levels, should negotiate and find solutions to all security and political impediments obstructing the CPEC's westward expansion through FATA toward Afghanistan and CARs.

At the international level, Pakistan should highlight the economic significance of the CPEC in FATA's integration in Pakistan's national mainstream, combating terrorism, extremism, and separatism. The false perception of CPEC as a Sino-Pak alliance to challenge U.S. and Indian interests in the region needs to be clarified; as Feroz Hassan Khan highlights, "In fact, the partnership is no more than a classic manifestation of neorealism in international relations."<sup>199</sup> Pakistan should endeavor to involve India and the United States as regional and global stakeholders to expand the corridor toward India, Afghanistan, and CARs to help Pakistan integrate FATA into its mainstream through economic development and prosperity.

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<sup>198</sup> Akhtar Munir, "China-Pakistan Economic Corridor: Benefits for Afghanistan," *Daily Outlook*, August 15, 2015, accessed July 26, 2016, [http://www.outlookafghanistan.net/topics.php?post\\_id=12836](http://www.outlookafghanistan.net/topics.php?post_id=12836).

<sup>199</sup> Feroz Hassan Khan, "Sino-Pakistani Relation: Axis or Entente Cordiale?," review of *The China-Pakistan Axis: Asia's New Geopolitics*, by Andrew Small, *Asia Policy*, January 2016, 156.

## VII. CONCLUSION

Pakistan must exploit the emerging regional security and economic situation existing after 9/11 and GWOT. The rise of TTP in FATA challenged the existence of the Pakistan's ideological and constitutional existence. These security challenges prompted military operations inside FATA, fueled by moral, military, and financial support from the international community. The Pakistan Army claims that after having flushed the Taliban out of FATA, including the internationally controversial and allegedly security establishment-sponsored Haqqanis network,<sup>200</sup> it is now engaged in combing operations across the country against underground and sleeper cells of the Taliban.<sup>201</sup> Owing to the destruction of the command and control structures of the Taliban, the security situation in Pakistan continues to improve significantly, and there has been a manifold reduction in violence. In 2015, the number of the TTP's attacks was the lowest since its formation in 2007.<sup>202</sup>

The IDPs, due to military operations in FATA, are now returning from government-organized temporary camps to their native areas in FATA.<sup>203</sup> This meaningful rehabilitation process in FATA demands that the civilian government not only launch the much-awaited control mechanism but must also create conditions for implementation of Pakistan's effective control apparatus by building public support and political will. The monster of terrorism that was bred and nurtured in FATA has isolated Pakistan and defamed the Pakistani image internationally and domestically. During the last two decades, it has cost tens of thousands of lives and huge financial resources to restore Pakistan's writ in FATA. Pakistan, in consultation with the United States and other regional stakeholders, must expedite its efforts to establish the long-awaited peace

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<sup>200</sup> Baqir Sajjad Syed, "Operations in FATA Nearing Completion," *Daily Dawn*, March 15, 2016, accessed June 7, 2016, <http://www.dawn.com/news/1245732>.

<sup>201</sup> Ahmed, "FATA after Operation Zarb-e-Azb," 23.

<sup>202</sup> "Pakistan Maintains Defense Budget Increase as Security Improves," *Dunya News*, June 4, 2016, accessed on July 14, 2016, <http://dunyanews.tv/en/Pakistan/339693-Pakistan-maintains-defence-budget-increase-as-secu>.

<sup>203</sup> "40% IDPs Have Returned to Their Homes: Army," *Daily Times*, December 20, 2015, accessed June 2, 2016, <http://dailytimes.com.pk/pakistan/20-Dec-15/40-idps-have-returned-to-homes-in-nwa-army>.

in the FATA and Afghanistan. The decades-old civil war has not only destabilized FATA and Afghanistan, but it also has far-reaching effects on the region's peace and economic uplift.

Pakistan also must undertake concrete measures to rehabilitate the Taliban that was sponsored by multiple states—Pakistan, the United States, Saudi Arabia, and Afghanistan—and created to fight the U.S.S.R during the Cold War. President Pervez Musharraf highlighted that “we helped create the mujahedeen, fired them with religious zeal in seminaries, armed them, paid them, and sent them to a jihad against the Soviet Union in Afghanistan. We did not stop to think how we would divert them to productive life after the jihad was won.”<sup>204</sup>

Ironically, 70 years ago, had Pakistan's ruling elite taken appropriate constitutional measures to integrate FATA, the violence, lawlessness, and deprivations of tribesmen might have been addressed. The improved security situation and eviction of Taliban from FATA provides an opportunity to Pakistan to consolidate its gains and integrate FATA into its state system. Pakistan must absorb FATA into its state system through constitutional amendments, before it becomes too late and the Taliban re-emerges to challenge the state in settled areas of Pakistan yet again.

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<sup>204</sup> Nazya Faiz, “Policy Intervention in FATA: Why Discourse Matters,” *Journal of Strategic Security*, 5 (2012): 51, accessed July 13, 2016, <http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1136&context=jss>.



## **APPENDIX. AN OVERVIEW OF PAKISTAN’S POLITICAL STRUCTURE**

According to article 50 of the 1973 constitution of Pakistan, Pakistan’s parliament consists of the National Assembly, lower house, and the Senate, upper house. Parliament can legislate on any matter; however, the National Assembly exclusively handles bills related to financial aspects only.<sup>205</sup> Members of the National Assembly are directly elected for a term of five years through adult franchise; these members then elect the prime minister—the head of the government.<sup>206</sup> The members of the provincial assemblies elect the senators. The president, as the head of the state, is directly elected by the parliament and acts on the advice of the prime minister. The National Assembly is an independent legislative house that proposes and creates laws for the federation through discussions, adjournment motions, questions, and standing committees on various subjects. The opposition parties ensure that the government adheres to the constitution while administering the governing function. The Speaker, who is assisted by 46 standing committees, including Defense, Finance, Foreign Affairs, and Commerce, runs the National Assembly. The provinces are allotted seats in the National Assembly in proportion to their population. The current distribution by province of National Assembly members is given in Table 8.

Table 8. Distribution of Seats in National Assembly of Pakistan by Province.<sup>207</sup>

| <b>Type</b>  | <b>Baluchistan</b> | <b>KPK</b> | <b>Punjab</b> | <b>Sindh</b> | <b>FATA</b> | <b>Federal Capital</b> | <b>Total</b> |
|--------------|--------------------|------------|---------------|--------------|-------------|------------------------|--------------|
| General      | 14                 | 35         | 148           | 61           | 12          | 2                      | <b>272</b>   |
| Women        | 03                 | 08         | 35            | 14           | -           | -                      | <b>60</b>    |
| Minority     | -                  | -          | -             | -            | -           | -                      | <b>10</b>    |
| <b>Total</b> | <b>17</b>          | <b>43</b>  | <b>183</b>    | <b>75</b>    | <b>12</b>   | <b>2</b>               | <b>342</b>   |

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<sup>205</sup> “The Constitution of the Islamic Republic of Pakistan,”

<sup>206</sup> Ibid.

<sup>207</sup> Adapted from “Composition-National Assembly.”

As parliament's upper house, the Senate plays a significant role to ensure national harmony. The Chairman of Senate conducts the business of the house with the help of 42 standing committees on various government aspects. The current strength of the Senate is 100 members, and each province has equal representation in the Senate.<sup>208</sup> The allocation of seats, by province, in the Senate is given in Table 9.

Table 9. Distribution of Seats in the Senate of Pakistan by Province.<sup>209</sup>

| <b>Administrative Unit</b> | <b>General Seats</b> | <b>Reserved Women Seats</b> | <b>Technocrats</b> | <b>Total</b> |
|----------------------------|----------------------|-----------------------------|--------------------|--------------|
| Federal Capital            | 2                    | 1                           | 1                  | 4            |
| Baluchistan                | 14                   | 4                           | 4                  | 22           |
| KPK                        | 14                   | 4                           | 4                  | 22           |
| Punjab                     | 14                   | 4                           | 4                  | 22           |
| Sindh                      | 14                   | 4                           | 4                  | 22           |
| FATA                       | 8                    | -                           | -                  | 8            |
| <b>Total</b>               | <b>66</b>            | <b>17</b>                   | <b>17</b>          | <b>100</b>   |

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<sup>208</sup> Barth, The Governance Landscape of Khyber Pakhtunkhwa, 2.

<sup>209</sup> Adapted from "Province-wise Senators," Senate of Pakistan, accessed September 22, 2016, [http://www.senate.gov.pk/en/province\\_wise\\_list.php#pr\\_4](http://www.senate.gov.pk/en/province_wise_list.php#pr_4),

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